SUBDIVISION AND LAND DEVELOPMENT

Chapter 190

Borough

of

MCSHERRYSTOWN

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Chapter 190

SUBDIVISION AND LAND DEVELOPMENT

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[HISTORY: Adopted by the Borough Council of the Borough of McSherrystown 5-15-1991 by Ord. No. 1991-6. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 62.
Floodplain management — See Ch. 107.
Stormwater management — See Ch. 182.
Zoning — See Ch. 215.

ARTICLE I
General Provisions

§ 190-1. Title.

This chapter shall be known and may be cited as the "Borough of McSherrystown Subdivision and Land Development Ordinance."

§ 190-2. Legal authority. [1]

This chapter is enacted pursuant to authority granted to boroughs and other municipalities to enact ordinances regulating subdivision and development within the municipality, as granted by the Pennsylvania Municipalities Planning Code, being the Act of 1968, P.L. 805, No. 247, as amended, particularly Article V of that Act,[2] provided that the Borough's planning agency, as referred to in that Act, shall be the Planning Committee of Council.

§ 190-3. Purpose.

This chapter is enacted for the purpose of assuring suitable sites for building purposes and human habitation and to provide for the harmonious development of the Borough of McSherrystown; for the proper coordination of proposed streets, parks or other facilities with

1. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
2. **Editor's Note: See 53 P.S. § 10501 et seq.**

existing streets, parks or other facilities; for insuring adequate open space for traffic, recreation, light and air; and for the proper distribution of population, thereby creating conditions favorable to the health, safety, morals and general welfare of the people of the Borough.

§ 190-4. Scope.

A. No subdivision or land development of any lot, tract or parcel of land shall be made and no street, sanitary sewer, storm sewer, water main or other improvement in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of this chapter.

B. The approval of any subdivision or land development plan shall be based upon the following considerations:

(1) Recognition of a desirable relationship of the proposed development to the general land form, topographic and geologic character, to natural drainage and surface water runoff, and to the groundwater table;

(2) Recognition of a desirable standard of subdivision design, including adequate provisions for pedestrian and vehicular traffic, and for suitable building sites for the contemplated land use;

(3) Preservation of such natural assets as ponds, streams, shrubs, trees and watershed areas;

(4) Provisions for adequate and safe water supply, sewage disposal and other utilities.

§ 190-5. Interpretation.

The provisions of this chapter shall be interpreted to be the minimum requirements to meet the purposes of the Pennsylvania Municipalities Planning Code and this chapter. Where any provision of this chapter conflicts with or is inconsistent with any provision of any other ordinance, the stricter or more restrictive provision shall apply. Mention in or regulation by this chapter of any specific use of property, or any specific type of structure, shall not in itself authorize such use of property or the establishment or carrying on of any activity, or the erection or use of any type of structure. It is hereby declared that uses of property in the Borough shall be as governed by Chapter 215, Zoning, its amendments and supplements.

§ 190-6. Limitation of liability.

The grant of a permit or the approval of a subdivision and/or land development plan shall not constitute a representation, guarantee, or warranty of any kind by the Borough or by any official or employee of the Borough as to the advisability or practicability of the proposed use, nor shall any such approval represent any warranty as to the accuracy of the information provided by a developer. Approval of a plan shall create no liability upon the Borough, its officials or employees.

ARTICLE II
Definitions and Word Usage

§ 190-7. General provisions.

For the purpose of this chapter, certain words shall have the meanings respectively ascribed to them in § 190-9 of this article, or shall be interpreted as provided in § 190-8. For certain other words, which are not specifically defined in this article, the definitions given in the Pennsylvania Municipalities Planning Code, as last amended by the Act of 1988, P.L. 1329, No. 170,[3] shall apply. Any word not defined in the Planning Code or in this article shall have the same meaning as in a standard dictionary.

§ 190-8. General usage.

A. Words used in the present tense also imply the future tense.

B. Words used in the singular include the plural; words used in the plural include the singular.

C. Words used in the masculine include the feminine and the neuter.

D. The words "should" and "may" are permissive; the words "shall" and "must" are mandatory and directive.

E. The words "person," "subdivider," "landowner," "developer," and "applicant" may apply in any instance, as the situation requires, to an individual or natural person, a partnership, a corporation, or an unincorporated association of individuals, such as a club.

F. A "building" includes a "structure"; a "building" or "structure" includes any part thereof.

G. "Used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

§ 190-9. Terms defined.

Unless otherwise expressly stated in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

ACCESS DRIVE — A paved surface, other than a driveway, which provides for vehicular access from a street or private road to a parking area, loading area, drive-in service window or other facility within a development.

ACCESSORY BUILDING — A building subordinate to and detached from the main or principal building on the same lot, and used for purposes customarily incidental to the main or principal building.

ADVERTISEMENT — See "public notice."

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3. **Editor's Note: See 53 P.S. § 10101 et seq.**

AGENT — Any person, other than the developer, who, acting for the subdivider, submits to the planning agency and/or Council subdivision or land development plans for the purpose of obtaining approval thereof.

ALLEY — A minor right-of-way, privately or publicly owned, primarily for service access to the rear or side of properties.

APPLICANT — A landowner or developer, as defined in this section, including his heirs, successors or assigns, who files an application for subdivision or development of a tract of land.

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 plan, or for the approval of a development plan.

BASEMENT — A story partly underground, but having 1/2 or more of its height above the average level of the adjoining ground.

BERM — See "shoulder."

BLOCK — An area surrounded on all sides but not traversed by streets, alleys, public rights-of-way or municipal boundaries, or a combination of them.

BOROUGH — The Borough of McSherrystown, Adams County, Pennsylvania.

BOROUGH ENGINEER — A professional engineer, appointed by Council under Section 1005(1) of the Borough Code[4] to provide engineering services.

BOROUGH PLANNING COMMITTEE — See "Planning Committee."

BUILDING — Any structure on a lot, having a roof supported by columns or walls, and intended for the shelter, housing or enclosure of persons, animals and/or chattels.

BUILDING SETBACK LINES — Lines parallel to and set back from the lot lines a distance equal to the depth of the required yard (front, side or rear, as the case provides).

CARTWAY — See "roadway."

CELLAR — A story partly underground, with more than 1/2 of its clear height below the average level of the adjoining ground.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at a street intersection defined by the center lines of the streets and by a line of sight between points on their center lines at a given distance from the intersection of the center lines. Specific distances vary with road function.

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 (but not including streets, off-street

4. **Editor's Note: See 53 P.S. § 46005.**

parking areas, and areas set aside for public facilities) that is designed and intended for the use and enjoyment of residents of the development.

COMMONWEALTH — The Commonwealth of Pennsylvania.

COMPREHENSIVE PLAN — The plan, so named, consisting of maps, plans, and textual matter, adopted by the Borough pursuant to Article III of the Pennsylvania Municipalities Planning Code. [5]

CONTOUR LINE — A line on a topographical map connecting points of like elevation.

COUNCIL — The Borough Council of the Borough of McSherrystown.

COUNTY — The County of Adams, Pennsylvania.

COUNTY PLANNING COMMISSION — The Planning Commission of Adams County, Pennsylvania.

CROSSWALK — A publicly owned or privately owned right-of-way for pedestrian use extending from a street into a block or across a block to another street.

CUL-DE-SAC — A minor street open at one end for vehicular access, and with the opposite end terminating in a vehicular turnaround.

DECISION — Final adjudication by Council or any other body granted jurisdiction under this chapter or the Planning Code to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determination. All decisions shall be appealable to the Court of Common Pleas of the Fifty-First Judicial District of Pennsylvania (Adams County).

DETERMINATION — Final action by an officer, body or agency charged with the administration of this chapter, except the following: Council and the planning agency, only if and to the extent that the planning agency is charged with final decision on preliminary or final plans under this chapter. Determinations shall be appealable only to the boards having jurisdiction for such appeal.

DEVELOPER — A landowner, the agent of that landowner, or a tenant with the permission of the landowner, who makes or causes to be made a subdivision of land or a land development.

DEVELOPMENT — See "land development" and "subdivision."

DRAINAGE —

A. Surface water runoff; or

B. The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; or

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5. **Editor's Note: See 53 P.S. § 10301 et seq.**

C. The means of preserving the water supply and the prevention or alleviation of flooding.

DRIVEWAY — A minor vehicular right-of-way providing access between a street and a parking area or garage within a lot or property.

DWELLING — A building or part of a building designed for and used exclusively for residential occupancy. Types or categories of dwellings include:

A. APARTMENT — See "multiple dwelling or apartment unit."

B. ATTACHED ROW OR TOWN HOUSE UNIT — A residential structure containing three or more dwelling units which, except for the end units, are separated from each other by two common walls.

C. CONDOMINIUM — A given set of dwelling units, each of which is owned by an individual, or more than one individual in fee simple, and which is assigned a proportionate interest in all common elements, as set forth in Uniform Condominium Act, 68 Pa.C.S.A. § 3101 et seq.[6]

D. CONVERSION UNIT — An existing residential structure which is modified structurally in such a way as to convert it from one dwelling unit to more than one dwelling unit.

E. DUPLEX — A residential structure containing two single-family dwelling units, located either:

(1) Side by side, with a common wall between, and also designated as a semidetached unit; or

(2) One unit directly above the other, with one unit on the first floor of the building and the other directly above on the second floor, and no dwelling unit or part of a dwelling unit located in a basement or cellar.

F. DWELLING UNIT — One or more rooms having cooking and sanitary facilities and access directly outdoors or through a common entrance hall.

G. MOBILE HOME — See definition of "mobile home" below.

H. MULTIPLE DWELLING OR APARTMENT UNIT — A residential structure, other than an attached, row or town house unit, of two or more stories, containing three or more dwelling units.

I. ROW HOUSE — See "attached row or town house unit."

J. SEMIDETACHED UNIT — A residential structure containing two single dwelling units, with a common wall between.

K. TOWNHOUSE — See "attached row or town house unit."

EASEMENT — A limited use of land granted on private land for public or private use by another party or parties.

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6. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

EROSION — The wearing away of earth or rock and the removal of surface materials by the action of natural elements.

FLOOR (of a building) — See "story" below.

HEARING — See "public hearing."

HIGHWAY — See "street."

HOUSE — See "dwelling."

IMPROVEMENT — Any man-made, immovable item which becomes a part of, is placed upon, or is affixed to real estate and which may be needed to produce usable and desirable lots; improvements may include paving, curbs, gutters, sidewalks, water mains, sanitary sewers, storm sewers, grading, street signs, lights and plantings, and other items for the welfare of the property owners and the public.

INDIVIDUAL — When used as a noun, a natural person.

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 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; provided, however, that "land development" excludes the following:

   (1) The conversion of an existing single-family dwelling or single-family semidetached dwelling into not more than three residential units, unless those units are intended to be a condominium;

   (2) The addition of an accessory building, including a 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 purpose of this proviso, 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 proper authorities.

LANDOWNER — The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any

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

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law, and to be used, developed or built upon as a unit. Lots are further classified as follows:

A. DOUBLE FRONTAGE LOT — A lot with front and rear street frontage, otherwise known as a "through lot."

B. REVERSE FRONTAGE LOT — A lot extending between, and having frontage on, an arterial street and a minor street, and with vehicular access solely from the latter.

C. THROUGH LOT — A lot with front and rear street frontage, otherwise known as a "double frontage lot."

LOT AREA — The area contained within the property lines of an individual lot, excluding any area within a street right-of-way whether existing or future, but including the area of any easement.

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 and unpacking and assembly operations, and construction 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 have been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

OFFICIAL MAP — A map adopted by ordinance pursuant to Article IV of the Pennsylvania Municipalities Planning Code[7] and showing appropriate elements or portions of elements of the Comprehensive Plan with regard to public lands and facilities.

PARCEL — Any tract or contiguous tracts of land in the same ownership.

LAND — shall be considered contiguous even though separated by public or private roads.

PLAN — A map of a subdivision or land development, including all supplementary data. Plans are classified as follows:

A. DEVELOPMENT PLAN — The provisions for development, including a planned residential development, a plat of a 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 spaces and public facilities.

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7. **Editor's Note: See 53 P.S. § 10401 et seq.**

"Provisions of the development plan" means the written and graphic materials referred to in this definition.

B. FINAL PLAN — A complete and exact subdivision or land development plan, prepared for official recording, as required by law.

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

D. RECORD PLAN — An exact copy of the approved final plan, for necessary signatures and recording with the County Recorder of Deeds.

E. SKETCH PLAN — An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of a proposed subdivision or land development.

PLANNING AGENCY — The official body, designated by Borough ordinance, to perform for the Borough the functions assigned to planning agencies by the Pennsylvania Municipalities Planning Code; in this Borough, the Planning Committee is the planning agency.

PLANNING CODE — The Pennsylvania Municipalities Code, being the Act of 1968 P.L. 805 No. 247, as amended. [8]

PLANNING COMMITTEE — The committee of Borough Council, made up of three members of Council appointed by the President of Council, also known as the "Zoning Committee," and officially designated as the planning agency of this Borough.

PLAT — The map or plan of a subdivision or land development, whether preliminary or final.

PROFESSIONAL ENGINEER — A person licensed as a registered professional engineer in the commonwealth.

PUBLIC HEARING — A formal meeting held by Council or the planning agency, pursuant to public notice, intended to inform and obtain public consent, prior to taking action in accordance with the Planning Code and this chapter.

PUBLIC MEETING — A forum held pursuant to notice under 65 Pa.C.S.A. § 701 et seq., known as the "Sunshine Act." [9]

PUBLIC NOTICE — Notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. That 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 be not more than 30 days, and the second publication shall not be less than seven days from the date of the hearing.

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8. **Editor's Note: See 53 P.S. § 10101 et seq.**

9. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

RECREATIONAL VEHICLE — A vehicle which is designed for human occupancy under transient circumstances, such as camping, travel or other recreational purposes, and is sometimes referred to as a "travel trailer" or a "camping trailer."

REPORT — Any letter, review, memorandum, compilation or similar writing made by any 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.

RESIDENTIAL AREA — An area located on either or both sides of a street, between two or more intersecting streets and either:

A. Located within an R-1 or R-2 Zoning District; or

B. If not in an R-1 or R-2 District, then containing lots 40% or more of which are occupied by dwellings.

RESUBDIVISION — Any change in a map of an approved or recorded subdivision plat if that change affects any street layout on that map, or any area reserved on that map for public use, or any lot line.

RIGHT-OF-WAY — A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. If the right-of-way involves maintenance by a public agency, it shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

ROAD — Another term for "street," but often used for one in less densely settled areas of a community.

ROADWAY — The portion of a street improved, designed or ordinarily used for vehicular travel, and does not include the sidewalk or shoulder. The roadway is often referred to as the "cartway."

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

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

SERVICE DRIVE — See "alley."

SERVICE OR RECREATIONAL BUILDING — A structure housing an operational office and/or recreational and/or park maintenance facilities, built to conform to required standards. [10]

SETBACK LINE — See "building setback line."

SHOULDER — The graded part of a street on each side of the roadway, used for the accommodation of stopped vehicles, for emergency parking, and for lateral support of those and surface courses of the pavement.

SIDEWALK — A walkway along and within a street right-of-way constructed for use by pedestrians.

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

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

STORY — The portion of a building, excluding cellars, included between the surface of any floor and the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET — A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel. A street may be designated as "street," "avenue," "boulevard," "road," "highway," "land," "parkway," and other similar terms where intended for use by vehicular traffic or pedestrians, whether public or private. Streets are further classified as follows:

A. ARTERIAL STREET — A major street with fast or heavy traffic volume of considerable continuity and used primarily as a means of travel from place to place for a considerable distance not limited to a single municipality or community.

B. COLLECTOR STREET — A street which carries traffic between minor streets and arterial streets, including the principal streets of a residential development and streets for circulation within such a development.

C. HALF OR PARTIAL STREET — A street parallel with and adjacent to a property line having a lesser right-of-way width than required for a satisfactory improvement and use of the street.

D. LIMITED ACCESS HIGHWAY — An arterial street which carries large volumes of traffic at comparatively high speed with access at designated points only, and not from abutting properties.

E. MAJOR THOROUGHFARE — An arterial street.

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10. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

F. MARGINAL ACCESS STREET — A minor street which is parallel and adjacent to a limited access highway or other arterial street, and which provides access to or egress from abutting properties and protection from heavy traffic.

G. MINOR STREET — A street used primarily for access to and egress from abutting properties.

STRUCTURE — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including but not limited to, buildings, mobile homes and other similar objects.

SUBDIVIDER — The owner or the authorized agent of the owner of a lot, tract or parcel of land to be subdivided for sale or development under the terms of this chapter.

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, which shall mean the use of the land for active cultivation or animal husbandry, 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 § 190-34 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.

SWALE — A man-made or natural depression in grade for drainage of surface water.

TRACT — All contiguous land owned by the same landowner.

UTILITY, PUBLIC OR PRIVATE —

A. Any agency which, under public franchise or ownership, or under certificate of convenience or necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar public service; or

B. A closely regulated private enterprise with an exclusive franchise for providing a public service.

WALKWAY — A publicly owned or privately owned right-of-way for pedestrian use, located out of doors.

WATERCOURSE — A stream of water, river, brook, creek, or channel of a perceptible extent, with definite bed and banks to confine a continuous or intermittent flow of water.

ARTICLE III
Application and Processing Procedures

§ 190-10. Preapplication procedures.

A. Copies of this chapter shall be available for use by any person seeking information concerning subdivision and/or land development standards, requirements and procedures within the Borough. Any prospective subdivider or developer may meet with the planning agency to discuss and review material in this chapter and/or tentative plans.

B. Prospective developers shall consult with a representative of the County Conservation District concerning erosion and sedimentation control and the effect of geologic conditions on the proposed development. At the same time a determination shall be made as to whether or not any flood hazards exist or whether flood hazards would be created as a result of the subdivision or development. The provisions and restrictions in Chapter 215, Zoning, pertaining to permitted and prohibited uses of land within the Floodplain Overlay District shall be carefully considered at this stage. Land that is subject to flooding shall not be platted for residential occupancy; for any use that might endanger health, life or property; for any use not permitted by Chapter 215, Zoning, in the district where the subdivision or development is contemplated. Such land within a subdivision shall be set aside for uses that are permissible, and would not be endangered by periodic or occasional flooding.

§ 190-11. Sketch plan.

A. Prior to submitting a preliminary plan, prospective applicants may submit to the planning agency a sketch plan, which shall contain at least the information specified in § 190-18B of this chapter. The purpose of the submission of the sketch plan is to enable the planning agency to review the proposal for factors that may affect the subdivision or development.

B. Sketch plans will be considered as having been submitted for informal review and discussion, and the submission of a sketch plan shall not constitute formal filing of the plan with the Borough.

C. Within 10 days after the sketch plan review and discussion, the planning agency shall furnish the subdivider with a report stating the extent to which the proposed subdivision or development conforms to the applicable provisions of this chapter, and also stating that the planning agency is willing to discuss possible plan modifications necessary to secure conformity.

§ 190-12. Preliminary plan.

A. The preliminary plan shall conform to all the requirements set out in § 190-19 of this chapter, provided that the planning agency may waive the requirement that a preliminary plan be submitted and approved before consideration of a final plan in either or both of the following situations:

(1) Where the initial plan is for a subdivision involving 10 or fewer lots.

(2) In a proposed development in which all lots abut an existing public right-of-way.

B. Every preliminary plan, along with all required accompanying documentation and other material, shall be submitted by the applicant to the Borough Secretary at least 15 days in advance of a scheduled meeting of the planning agency.

C. Submission of the preliminary plan shall consist of the following:

(1) Five completed copies of the required application form;

(2) Nine blue-line or black-line paper prints of the preliminary plan, showing all information required by § 190-19B of this chapter;

(3) Five copies of all other required documentation and information;

(4) The required filing fee, as prescribed by resolution, and the deposit of $750 referred to in § 190-45.

D. The Borough Secretary shall distribute the nine copies of the plan referred to in Subsection C(2) of this section as follows:

(1) Three copies to the planning agency, one for each of its members.

(2) One copy to the County Planning Commission.

(3) One copy to the Borough Solicitor.

(4) One copy to the Borough files.

(5) One copy to the Soil Conservation Service of the U.S. Department of Agriculture, for review and recommendation concerning erosion, sedimentation and drainage control.

(6) One copy to the local office of the Pennsylvania Department of Transportation.

(7) One copy, and two copies of a DEP Planning Module for land development, to the Borough's Plumbing Inspector, in his capacity as Sewage Enforcement Officer, for review (and report to the planning agency if necessary), then for forwarding to the Department of Environmental Protection.

§ 190-13. Action on preliminary plan by planning agency.

A. Plans shall be reviewed by the planning agency with reference to the following:

(1) The standards and requirements of this chapter, the latter including, but not limited to, the improvements, design, and dedications and reservations required or prescribed by this chapter;

(2) Conformity with the provisions of Chapter 215, Zoning;

(3) Applicability of and conformity with the provisions and requirements of other Borough ordinances;

(4) Provisions contained in the Comprehensive Plan;

(5) Site suitability for the particular type of development planned;

(6) The availability of necessary services and facilities;

(7) Any comments and recommendations from the following persons or agencies:

(a) The Borough Engineer;

(b) The County Planning Commission;

(c) The Pennsylvania Department of Transportation;

(d) The Borough's Sewage Enforcement Officer;

(e) The Soil Conservation Service;

(f) The Pennsylvania Department of Environmental Protection;

(g) Affected public utilities, and municipalities or municipal authorities furnishing utility service;

(h) Local fire company officials;

(i) The Borough Solicitor;

(j) Interested citizens.

B. Before the planning agency acts on the preliminary plan, Borough Council, on recommendation of the planning agency, may hold a public hearing on the plan, pursuant to public notice.

C. All applicants for approval of a preliminary plan shall be acted upon by the planning agency, and it shall render its decision and communicate it to the applicant not later than 90 days from the date of the scheduled meeting of the planning agency next following the date when the application was filed, provided that, should that next scheduled meeting take place more than 30 days following the filing of the application, the ninety-day period shall be measured from the 30th day following the date when the application was filed.

(1) The decision of the planning agency shall be in writing, and shall be communicated to the applicant personally, or mailed to him at his last known address, not later than 15 days following the decision.

(2) When the application is not approved in terms as filed, the decision shall specify the defects found in the application, and state the requirements that have not been met, and, in each case, cite the provisions of the statute or the ordinance relied upon.

(3) Failure of the planning agency to render a decision and to communicate it to an applicant within the time and in the manner required by this section shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation or communication of the decision, in which case failure to meet the extended time or the change in manner of presentation shall have like effect.

D. Approval of a preliminary plan may be granted subject to conditions prescribed by the planning agency and specified in writing as part of the decision rendered as provided in Subsection C of this section. The plan shall be approved only if the applicant accepts the said conditions, within 30 days after the decision was rendered and communicated to the applicant. If the applicant rejects the conditions within that thirty-day period, or if he neither accepts nor rejects them within that time limit, the approval of the plan shall be rescinded automatically.

§ 190-14. Final plan.

A. The final plan shall conform to all requirements of § 190-20 of this chapter, and, except for modifications or changes required as a condition for the preliminary plan, the final plan shall conform to the approved preliminary plan.

B. Submission of a final plan for approval shall take place not more than three years following the date of approval of the preliminary plan. Failure to submit the final plan within this period of time shall make the approval of the preliminary plan null and void unless an extension of time shall be granted.

C. Submission shall consist of the following:

(1) Nine blue-line or black-line paper prints of the final plan showing all the information required in § 190-20B.

(2) Five copies of all other required documentation and information.

(3) The required filing fee, and the deposit referred to in § 190-12C(4) of this chapter, in cases where the filing of a preliminary plan was waived under § 190-18A of this chapter.

D. The Borough Secretary shall distribute the nine copies of the plan referred to in Subsection C of this section, to the same recipients referred to in § 190-12D of this chapter pertaining to the preliminary plan.

§ 190-15. Action on final plan.

A. Action on the final plan shall be taken in the same manner and subject to the same time limits as provided for the preliminary plan in § 190-13 of this chapter. The planning agency, the Council, and other officials shall have the same authority, powers and duties in respect to final plans as are prescribed for them, respectively, for preliminary plans in § 190-13. Likewise, the applicant shall be subject to the same requirements, provisions

and privileges in respect to final plans as prescribed for him for preliminary plans by § 190-13.

B. The final plan shall not be approved until the developer:

(1) Has completed all improvements prescribed and required by this chapter and/or by the planning agency by authority of this chapter, or has furnished financial security as required by § 190-34 of this chapter; and

(2) Has paid over to the Borough the total amount due to the Borough from him, in excess of the deposit to cover review fees referred to in § 190-45B of this chapter; and any fees due the Borough for park or recreational purposes, under § 190-32K of this chapter.

C. If a final plan is approved, all members of the planning agency, and the President and Secretary of Council, shall sign the record plan and all prints.

D. Within 90 days of approval of the final plan, the developer shall record the plan in the office of the Recorder of Deeds of Adams County as required by Section 513 of the Planning Code, as amended.[11]

§ 190-16. Resubdivision procedure.

Any replatting or resubdivision, including changes to a recorded plan, shall be considered a new application, and shall comply with all requirements of this chapter for a new subdivision.

§ 190-17. Additions of parcels to existing recorded lots.

A parcel of land may be added to existing recorded lots for the sole purpose of increasing the lot size, provided that:

A. The parcel to be added is contiguous to the existing lot.

B. The addition will maintain or improve the straightness of lot lines.

C. The plan prepared for the addition of this parcel follows the procedure set out in this chapter, except that a preliminary plan need not be filed.

D. It is stipulated on the plan that the parcel is for the sole purpose of enlarging an existing lot and that the combined tracts shall, after approval, then be treated as one lot for all purposes, under this and all other ordinances of the Borough, existing or future.

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11. **Editor's Note: See 53 P.S. § 10513.**

ARTICLE IV
Plan Requirements

§ 190-18. Sketch plan.

A. General requirements. The sketch plan may be a freehand drawing and should be accompanied by an application for subdivision and land development approval. The sketch plan may be drawn on a print of the property map, and need not be drawn to exact scale nor are precise dimensions required. However, the size should approximate that of a drawing with a scale no smaller than one inch to 400 feet.

B. Specific requirements. The sketch plan shall contain at least the following information:

(1) Name and address of the developer, name of the Borough, name of the development, North arrow, date and approximate scale.

(2) Existing tract boundaries.

(3) Location map showing relation of the proposed development to the surrounding area and community.

(4) Existing and proposed streets, easements and rights-of-way.

(5) Proposed general lot layout.

(6) Number of acres in the tract, average lot size, approximate number of lots, anticipated type of development.

(7) All public reservations, such as for schools and parks.

(8) Topography of the tract, showing existing drainage patterns and slope directions.

(9) Any other significant natural and man-made features that would affect the proposal.

§ 190-19. Preliminary plan.

A. General requirements.

(1) The preliminary plan shall be prepared by a registered engineer in accordance with the Act of May 23, 1945, P.L. 913, No. 367, known as the Engineer, Land Surveyor and Geologist Registration Law.[12] It shall be clearly and legibly drawn on linen, reducible Mylar or another permanent drafting film approved by the Borough Engineer.

(2) Plans involving tracts of one acre or less shall be drawn to scale no smaller than one inch equals 50 feet. Plans involving tracts of more than one acre and no more than 10 acres shall be drawn to a scale no smaller than one inch equals 100 feet. Plans involving tracts in excess of 10 acres shall be drawn to a scale no smaller

12. **Editor's Note: See 63 P.S. § 148 et seq.**

than one inch equals 200 feet. Plans for tracts to be used for commercial or industrial purposes, or for high-density housing purposes, shall be drawn to a scale no smaller than one inch equals 50 feet.

(3) The preliminary plan shall be prepared on one or more sheets of uniform dimensions 18 inches by 24 inches. Drawings made to a scale requiring a sheet larger than 18 inches by 24 inches may be reduced to that size, provided that all lines and lettering are clear and legible after reduction. If the preliminary plan requires more than one sheet, a key diagram showing the location of each sheet shall be drawn on each sheet.

B. Specific requirements. The preliminary plan shall show the following:

(1) Name of the proposed subdivision and that it is located in the Borough of McSherrystown.

(2) Name and address of the subdivider or developer.

(3) Name and address of the record owner of the property or his agent.

(4) Name, address, license number and seal of the registered engineer who prepared the drawings.

(5) The graphic scale and written scale.

(6) North point indicating direction to true North.

(7) The date of the plan and the dates of all plan revisions.

(8) Certificate by the professional engineer that the topography shown resulted from an actual survey, and the date of that survey.

(9) A key map, also referred to as a location map, for the purpose of locating the property being subdivided. Drawn to a scale of one inch equals 1,000 feet, the key map shows the relation of the property to be subdivided to adjoining property, and contains sufficient information to enable Borough officials to locate the proposed subdivision, including, but not limited to, all streets, roads, municipal boundaries and all recorded subdivision plans existing within 1,000 feet of any part of the property. In addition, a title, scale and North point shall be indicated.

(10) A plot, drawn to a legible scale, and showing the entire existing tract boundary, with bearings and distances, and the location of lots proposed to be subdivided from that tract.

(11) The boundaries of immediately adjacent properties, and, for each, the name of the owner of record and the deed number. Where adjacent properties are part of a recorded plat, only the lot numbers and subdivision name need be shown.

(12) Existing contours at vertical intervals of at least two feet for land with an average natural slope of 5% or less; at vertical intervals of at least five feet for land with average natural slope of more than 5%, but no more than 10%; and at vertical intervals of 10 feet for land with average natural slope exceeding 10%. Contours

shall be accompanied by a notation indicating the location and elevation of the datum to which contour elevations refer; where practicable, the datum used shall be an established bench mark.

(13) The location of all existing bodies of water or watercourses, tree masses, rock outcrops and other significant natural features within or adjacent to the tract.

(14) The location and name (or official route number) of every existing and proposed public street within or adjacent to the tract, showing for each the street lines, including width of right-of-way and cartway, and, if applicable, curb, grass plot and sidewalk; and the name and location of all other roads within the property.

(15) The location and future rights-of-way required for the expansion of existing streets.

(16) Typical cross sections for proposed streets showing construction materials and specifications.

(17) The point of access of driveways on corner lots.

(18) Clear sight triangles at each street intersection and each proposed access drive intersection with a street or another access drive.

(19) If the proposed subdivision would have a new street intersection with a state legislative route, the intersection occupancy permit number or numbers (or application number or numbers if no permit number is available) shall be indicated at all such intersections.

(20) Location of existing and proposed alleys in or adjacent to the subdivision, with names and widths.

(21) Location (and elevation if established) of all existing and proposed street monuments and markers.

(22) Location of all existing buildings and structures (and the location of wells and on-site sewage facilities serving any building or structure), sewers, water mains, culverts, petroleum lines, gaslines, electric transmission lines, fire hydrants, public facilities and other significant man-made features within or adjacent to the tract.

(23) Location and width of all existing easements and rights-of-way within or adjacent to the tract. The name of the grantee and the purpose for which each easement and right-of-way was established shall be noted.

(24) Location, width and purpose of all proposed easements and rights-of-way.

(25) Layout of proposed lots, giving lot numbers and a statement of the total number of lots and parcels; showing approximate dimensions of lot lines, the approximate size of each lot, and proposed building setback. Lot numbers shall be used to identify each lot.[13]

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13. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

(26) Location, dimensions and purpose of areas to be dedicated or reserved for public and quasi-public or semipublic uses, or to be reserved for common use of all property owners and/or tenants in the development, with any conditions for their use.

(27) A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist or will exist as covenants in the deeds for the lots contained in the development, and, if recorded, including the book and page number.

(28) Location, size and invert elevation of all existing and proposed sanitary sewers, including all existing and proposed capped sewer lines and the location of all manholes, inlets and culverts. This information may be submitted as a separate plan.

(29) Location, size and invert elevation of all existing and proposed storm sewers and other drainage facilities, with the size and material of each indicated, and any proposed connections with existing facilities.

(30) Location of drainage structures, including marshes, ponds, streams, and similar facilities or conditions.

(31) Information on the stages, if any, to be followed in the construction of the development.

(32) Table of site and development data, including statements of total acreage of the entire existing tract; proposed use of the property; density; number of proposed lots, proposed minimum lot size; and lineal feet of new streets proposed. If the property is proposed to be used for residential purposes, the number of proposed dwelling units shall also be given.

(33) Certification, with seal, by the registered professional engineer or surveyor who prepared the plan, to the effect that the survey and plan are correct.

(34) A notarized statement to the effect that the applicant is or represents the owner of the land proposed to be developed, and that the land development shown on the preliminary plan is made with the owner's full consent.

(35) If the developer proposes to impose restrictions on future lot owners by deed restrictions or covenants, the text of such provisions shall be shown on the plan, or shall accompany the plan if the text is too lengthy to place on the plan. In either event, a note shall be placed on the plan referencing the restrictions.

(36) Provision for signatures, as follows:

(a) Signatures by members of the Borough's planning agency indicating their review of the plan (three spaces for signatures and one space for review date).

(b) Signature of the Borough Engineer, indicating his review of the plan (one space for the signature, one for the review date).

(c) Signatures of members of Council indicating their approval of the plan (seven spaces for signatures, one for the review date).

C. Supplementary information and material accompanying preliminary plan. The preliminary plan shall be accompanied by the following information, data and material, except where the planning agency or Council has, in a specific case, excused the developer from furnishing one or more items, as being inapplicable to the proposed subdivision because of size, location or proposed use of the development or for other reasons pertinent to the nature of the subdivision and the proposed development, or because of being covered in other material or information furnished by the developer.

(1) Application for land development approval.

(2) Filing fee and any other fees and deposits as prescribed and recorded by the Borough under the provisions of this chapter.

(3) A planning module for land development, as required by the Pennsylvania Department of Environmental Protection.

(4) Evidence that the Borough of Hanover Water Department, supplier of water in this Borough, has been contacted concerning water supply for the proposed development, and that the proposed development will be supplied with water thereby.

(5) A feasibility report concerning the availability and adequacy of water supply and sewerage facilities in and near the proposed development.

(6) A storm drainage plan and storm drainage calculations, including stormwater runoff calculations and a drawing of present and proposed grades, and facilities for accommodating the anticipated runoff in accordance with Chapter 182, Stormwater Management. Whenever a land development plan proposes to dispose of stormwater runoff to an adjacent property not within a natural watercourse or in a manner which exceeds the capability of a natural watercourse, approval of the affected owners shall be obtained and submitted with the plan.

(7) A plan for the control of erosion and sedimentation for review by the County Conservation Office, as required by the Clean Streams Act.[14] For tracts of five acres or more, recommendations of the County Conservation District must be obtained and submitted.

(8) Typical street cross-section drawings for all proposed streets.

(9) Center-line profiles for all proposed streets showing, for each, complete vertical geometry, including lengths of vertical curves, grades and center lines of intersecting streets, and existing center-line grades and grading cross sections. Profiles shall show both natural and finished grades.

(10) Preliminary engineering designs of all proposed bridges and culverts. The designs shall be in sufficient detail for public bid contract construction, and shall meet all

14. **Editor's Note: See 35 P.S. § 691.1 et seq.**

applicable requirements of the Pennsylvania Department of Environmental Protection and the Pennsylvania Department of Transportation.

(11) Where the land included in the proposed development plan (as defined in Section 107 of the Planning Code[15]) has an electric transmission line, a gas pipeline, or a petroleum or petroleum product transmission line located within the tract, the plan shall be accompanied by a letter from the owner or lessee of that right-of-way stating any conditions on the use of the land and the minimum building setback and/or right-of-way lines. This requirement may also be satisfied by submitting a copy of any recorded agreement that contains such information.

(12) Where a proposed development contains only a part of the developer's entire tract, a sketch plan shall be submitted of the remainder of the tract, showing particularly the future street system of the unsubmitted part of the tract. The street system of the submitted part shall be considered in the light of adjustments and connections with future streets in the part not submitted.

(13) If the plans propose the use of utility or other services extending from another municipality, a statement or certificate indicating that the proposal has been reviewed by that other municipality.

(14) Proof of any variances or special exceptions that have been granted.

(15) Copies of any permits, applications for permits, certificates, or documents pertaining to the development that may be requested by the planning agency.

§ 190-20. Final plan.

A. General requirements. The general requirements prescribed for the preliminary plan in § 190-19A of this chapter shall apply in every respect to the final plan, provided that, in case a development is projected over a period of years, the planning agency may authorize submission of plans by sections or stages of development, as referred to in § 190-34G of this chapter. If the final plan is submitted by sections or stages, each should clearly be designated and entitled as such, and should be accompanied by a separate sketch plan showing the entire development, and locating and designating on the sketch plan the section or stage to which the final plan applies, and, if applicable, any sections or stages previously approved, with each clearly designated by a name or number and its status indicated.

B. Specific requirements.

(1) Except for modifications or changes required as a condition for approval of the preliminary plan, the final plan shall conform basically to the approved preliminary plan. (However, if significant changes or modifications, other than those required as a condition for approval, have been made to an approved preliminary plan, that modified plan shall be submitted again as a preliminary plan.)

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15. **Editor's Note: See 53 P.S. § 10107.**

(2) In addition to the specific requirements shown on the preliminary plan as listed in § 190-19B of this chapter, the final plan shall show or include the following:

(a) Modifications or changes required as a condition for approval of the preliminary plan.

(b) Locations, dimensions and proposed uses of areas to be dedicated or reserved for public, quasi-public or semipublic purposes by reservation for common use of all property owners and/or tenants in the development.

(c) If streets, parks or other areas or portions of them are to be dedicated to the Borough, a note stipulating that the legal means of conveyance shall be by dedication.

(d) A table of site and development data, including statements of total acreage of the entire existing tract, proposed use of the property, density, number of proposed lots, proposed minimum lot size, and lineal feet of new streets proposed. If the property is proposed to be used for residential purposes, the number of proposed dwelling units shall also be shown.

(e) A notarized statement to the effect that the applicant is or represents the owner of the land proposed to be developed, and that the land development shown on the final plan is made with his or their free consent and that it is desired to record the same.

(f) Provision for proof that the County Planning Commission has reviewed the plan or, on the other hand, that 30 days had elapsed, after the application was forwarded to the County Planning Commission, without action having been taken by the County Planning Commission.

C. Supplementary information and material accompanying final plan. In addition to information, data and material required under § 190-19C of this chapter, the following shall accompany the final plan:

(1) Filing fee, where required, and recording fee.

(2) An approved Department of Environmental Protection Planning Module for land development.

(3) Final engineering designs of any proposed bridges and culverts.

(4) Approval from the Borough of Hanover, through its Water Department, stating that adequate water supply is available to service the area covered in the plan.

(5) Agreements with the developer and accompanying documentation dealing with installation and/or maintenance of required improvements, as referred to in § 190-34 of this chapter, including the status of the various improvements, and any guarantee and/or proof of financial security and monies deposited with the Borough to cover the cost of uncompleted improvements, plus 10%.

(6) Documents pertaining to or affecting the development, in addition to those authorized by § 190-19C(15) of this chapter, which may be required by the

planning agency or Council. These may include, but shall not be limited to, material dealing with and authenticating or authorizing special rights, privileges or liabilities, easements, or dedications, future dedications of existing private streets or of access drives as streets; and/or material pertaining to relationship with utilities, municipalities, authorities, and other entities.

D. Additional requirements for final plan for mobile home park. These shall include:

(1) Table of site and development data including the total acreage of the tract, density, number of proposed lots, number of proposed mobile homes, minimum lot size, linear feet of proposed park streets, and number of proposed off-street parking spaces, on and off mobile home lots.

(2) Location, dimensions and purposes of areas to be reserved for the common use of the residents of the mobile home park. If a common parking area is proposed, in addition to on-lot parking spaces, the location, arrangement and dimensions of parking spaces, width of aisles, width of bays, and angle of parking shall be shown.

(3) Location and dimension of pedestrian walks.

(4) Location and general exterior dimensions of all proposed service, accessory and office buildings.

(5) Location and dimensions of screens, buffers and common landscaped areas.

ARTICLE V
Design Standards

§ 190-21. Application and interpretation.

The following subdivision and land development standards, principles and requirements shall be applied by the planning agency in evaluating plans submitted under this chapter. It is the intention of the Borough that the standards and requirements outlined in this article shall be considered minimum standards for the protection and promotion of the public health, safety and welfare.

§ 190-22. General site standards.

The following requirements and guiding principles shall be observed with respect to factors affecting the suitability of the site for proposed subdivision and/or development:

A. The development plan shall conform to the Borough's Comprehensive Plan and Official Map or to such parts thereof that have been officially prepared and adopted by the Borough.

B. Land may be subdivided or developed only in conformity with all other ordinances and regulations in effect in the Borough.

C. The proposed subdivision or development shall be coordinated with existing land development in the neighborhood so that the entire area will be developed harmoniously.

D. Land proposed for development shall not be developed or changed by grading or excavating or by removal or destruction of the natural top soil, trees or other vegetative cover unless provisions for minimizing erosion and sedimentation are provided as required by the Erosion Control Regulations of the Pennsylvania Department of Environmental Protection have been met.

E. Subdivisions and developments shall be designed to avoid the necessity for excessive cut or fill.

F. In a development where the average slope exceeds 15%, the planning agency may require appropriate modifications to the standards and regulations contained in this chapter.

G. Land subject to hazards to life, health or property as may arise from fire, flood, disease, excessive noise or odor, or falling aircraft, or considered uninhabitable for other reasons, may not be developed unless the hazards have been removed or the plans show adequate safeguards against them.

H. All portions of a tract being subdivided or developed shall be taken up in lots, streets, public lands or other proposed uses, so that remnants and landlocked areas are not created.

I. In all subdivisions, every effort should be made and every precaution shall be taken to preserve all natural and historic features determined to be worthy of preservation, and/or which will add attractiveness and value to the remainder of the tract being subdivided. Examples of those features would include, but shall not be limited to, large trees or groves of trees, watercourses, historic areas and structures, exceptional views, and similar community assets. To secure the protection of such features, the planning agency may require that the developer submit the following additional information:

   (1) A grading plan showing the existing and proposed ground elevations relative to the features to be preserved;

   (2) The accurate location of the features to be preserved;

   (3) An explanation of the precautions to be taken by the developer to protect such features. For example, in the case of trees, tree guards may be required during construction and grading, and cuts and fills, both temporary and permanent, may be required near the trees as necessary to give reasonable assurance of their continued healthy growth.

§ 190-23. Streets.

A. General standards. All streets, public and private, proposed to be constructed within the Borough shall conform to the following general design requirements:

(1) Streets shall be logically related to topography, so as to produce reasonable grades, satisfactory drainage, and suitable building sites.

(2) Proposed streets shall be planned with regard to the existing street system, public convenience in terms of fire protection and pedestrian traffic, probable volumes of traffic, existing and proposed uses of land on abutting properties, and future extensions of the street system. Where a proposed street is an extension of an existing or recorded street, the new street shall be of the same width, but in no case less than the required minimum width; provided, however, that residential streets shall be laid out, where feasible, to discourage through traffic.

(3) The arrangement, character, extent, width, grade, and location of all proposed streets shall conform to applicable provisions of the Borough's Comprehensive Plan and Official Map.

(4) Where a subdivision abuts upon or contains an existing arterial street, the Borough may require a marginal access street, reverse frontage lots, rear service drives or other treatment to provide protection for abutting properties, reduction of the number of intersections, and separation of local from through traffic.

(5) No street shall terminate at a dead end. Any street dead-ended for access to adjoining properties shall terminate in a permanent cul-de-sac; any street dead-ended because of authorized staged construction shall be provided with a temporary turnaround, the use of which shall be guaranteed to the public until such time as the street is continued.

B. Street widths. Minimum street right-of-way and cartway widths shall be as follows:

(1) Street right-of-way and cartway width.

(a) Arterial, collector, minor streets and alleys.

Type of Street	**Right-of-Way Width**	**Cartway Width**
Arterial	As determined by the planning agency after consultation with the Pennsylvania Department of Transportation	As determined by the planning agency after consultation with the Pennsylvania Department of Transportation
Collector	60 feet	36 feet
Minor with average lot frontage of:		
70 feet or less	50 feet	34 feet
More than 70 feet	50 feet	34 feet or 20 feet plus two nine-foot shoulders
Alley or service drive	20 feet	20 feet

(b) Provision for additional street width (right-of-way, cartway, or both) may be required when determined to be necessary in specific cases for:

[1] Public safety and convenience;

[2] Parking in commercial and industrial areas and in areas of high-density development;

[3] Widening of an existing street where the width of alignment does not meet the requirements of the preceding subsections;

[4] Where topographical conditions require excessive cuts and fills.

(2) Culs-de-sac and turnaround widths.

Type	Width	
	Single-Family Detached on Lot Frontage 100 Feet or Over	All Other Dwelling Types
Cul-de-sac		
Right-of-way	50 feet	50 feet
Shoulders	16 feet (8 feet each side)	--
Cartway	18 feet	34 feet
Turnaround of cul-de-sac (diameter)		
Right-of-way	100 feet	100 feet
Cartway	80 feet	80 feet

C. Street grades.

(1) The grades of streets shall not be less than the following minimum or more than the following maximum grades:

Type of Street	Minimum Grade
All streets	0.5% when curbs are used 1.0% without curbs
Arterial	As determined after consultation with the Pennsylvania Department of Transportation
Collector	0.5% when curbs are used 1.0% without curbs
Minor	0.5% when curbs are used 1.0% without curbs
Alley or service drive	0.5% when curbs are used 1.0% without curbs

(2) Vertical curves shall be used in changes of grade when the difference exceeds 1%, and those curves shall be designed for maximum visibility.

(3) With permission of the planning agency, grades of a minor street, under special topographic conditions, may exceed 10% for distances less than 100 feet, provided that the grade does not in any case exceed 15%.

D. Curves.

(1) Where connecting street lines deflect from each other at any one point by more than 10°, the line shall be connected with a true circular curve. The minimum radius of the center line of the curve shall be as follows:

Type of Street	Minimum Radius
Collector	300 feet
Minor	150 feet

(2) Straight portions of streets shall be tangent to the beginning or end of curves. Except for minor streets, there shall be a tangent of at least 100 feet between reverse curves.

E. Sight distance.

(1) Proper sight distance shall be provided with respect to both vertical and horizontal alignments. The sight distance measured from the center line 4.5 feet above grade shall be as follows:

Type of Street	Sight Distance
Arterial	400 feet
Collector	200 feet
Minor	200 feet

(2) 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 center lines. No building or other obstruction that would obscure the vision of a motorist shall be permitted within those areas.

(3) Proper sight distance shall be provided with respect to both horizontal and vertical road alignments at all intersections.

F. Culs-de-sac. The length of a cul-de-sac shall be measured from the center of the turnaround to the point of intersection of the center line of the cul-de-sac and the right-of-way line of the intersecting street. Culs-de-sac designed to be permanent shall not exceed 500 feet in length and shall be provided with a paved turnaround having a minimum diameter of 80 feet and a legal right-of-way 100 feet in diameter, except in

nonresidential areas when, under special circumstances, the planning agency deems that additional length necessary and advisable.

G. Intersections.

(1) No intersection shall involve the junction of more than two streets.

(2) Right-angle intersections shall be used wherever possible. In no instance shall streets intersect at an angle of less than 75°.

(3) Intersections shall be approached on all sides by leveling areas. Where grades exceed 7%, the leveling areas shall have a minimum length of 100 feet (measured from the intersection of the center lines), within which no grade shall exceed 4%.

(4) All streets intersecting a state road or highway (US, PA, or LR) shall be subject to the approval of the Pennsylvania Department of Transportation. The developer shall furnish evidence of such approval in the form of a PennDOT Highway Occupancy Permit or other applicable document.

(5) Design of curbs or edges of pavements shall take into account such factors as types of turning vehicles, likely speeds of traffic, angle of turn, number of lanes, and whether or not parking is permitted. In no instance, however, shall the radius of the curb or edge of pavement be less than the following:

Intersection	Minimum Curve Radius
Minor street with minor street	15 feet
Minor street with collector street	25 feet
Collector street with collector street	35 feet

(6) Minor and collector streets shall not intersect arterial streets on the same side at less than eight-hundred-foot intervals and shall be in alignment with any existing or proposed streets intersecting from the opposite side. If two streets that intersect another from opposite sides cannot be aligned, then a distance of at least 150 feet shall be provided between the two intersecting center lines.

H. Slope.

(1) Slopes on crown. The slopes of the crown on residential services and neighborhood collector streets shall be at least 1/4 inch per foot but not more than 3/8 inch per foot, as directed by the Borough Engineer. This applies only to straight sections of a street. Where a curve is banked to reduce lateral vehicular acceleration as required by the design speed of the street, the crown requirement is eliminated.

(2) Slope of banks. The slope of banks along a street, measured perpendicular to the street center line, shall be no steeper than the following:

(a) For fills, one foot of vertical measurement for three feet of horizontal measurement;

(b) For cuts, one foot of vertical measurement for two feet of horizontal measurement.

I. Partial and half streets.

(1) New half or partial streets will not be permitted, except where essential to provide reasonable access to a subdivision of a tract in conformance with the other requirements and standards of this chapter, and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be obtained.

(2) Whenever there is an existing half street adjacent to a tract to be developed, then the other half of the street shall be platted and dedicated within that tract unless otherwise determined by Borough Council.

J. Reserve strips. Controlling access to streets by reserve strips is prohibited.

K. Alleys. Alleys are permitted in single-family residential developments, and may be included in townhouse, multiple-dwelling, commercial, and industrial developments.

L. Names of streets. Names of new streets shall not duplicate or approximate names of any existing platted street names, or approximate such names by the use of different designations for them, such as "lane," "way," "court," "drive," "road," or "avenue" in place of "street." In approving proposed names for new streets, consideration shall be given to street names within the postal delivery district served by the local post office. New streets shall be given the same name as an existing street of which they are continuations or with which they are in alignment.

§ 190-24. Driveways and access drives.

A. Driveways and access drives in residential areas. Driveways and access drives in residential areas shall be in conformity with the following requirements:

(1) Within 10 feet from a street right-of-way line, an access drive or driveway shall not exceed 20 feet in width.

(2) The number of access drives may not exceed two per lot; the number of driveways may not exceed one per lot unless circumstances require an additional access point. The additional access point shall not be permitted unless approved by the Borough Engineer.

(3) A driveway or access drive may not cross a street right-of-way line:

(a) Within five feet of a side property line except where it provides common access for two dwellings;

(b) Within 50 feet of the right-of-way line of an intersecting street where entrance is from an arterial street;

(c) Within 35 feet of the right-of-way line of an intersecting street where entrance is from a collector street;

(d) Within 25 feet of the right-of-way line of an intersecting street where entrance is from a minor street;

(e) Within 15 feet of a fire hydrant.

(4) In the case of corner lots, the driveways or access drives, if found practicable in the judgment of the Borough Engineer, shall access from the street of lesser classification; that is, from the minor street where the intersecting street is a collector street or arterial street, and from the collector street where the intersecting street is an arterial street.

(5) A driveway or access drive shall be located in safe relationship to sight distance and barriers to vision. The driveway or access drive shall not exceed a slope of 5% within 25 feet of the street right-of-way line. Where a driveway or access drive enters a bank through a cut, the shoulders of the cut shall not exceed 50% of slope within 25 feet of the point where the drive intersects the street right-of-way.

B. Driveways and access drives in the case of commercial or industrial development.

(1) Driveways (but not access drives) in commercial and industrial developments shall be subject to the same requirements as prescribed for driveways in residential areas by Subsection A of this section.

(2) The following provisions shall apply to access drives in commercial and industrial developments:

(a) Access drives from any street shall be located at least 150 feet from any intersection involving any arterial or collector street, and at least 100 feet from any intersection of minor streets.

(b) Where practicable, access drives shall be located on a minor street rather than a collector or arterial street. The Borough Engineer shall be consulted in the matter of practicability.

(c) Access drives shall be designed so as to permit safe ingress and egress, and, where possible to have two access points, the access drive should be designed so that vehicles enter the lot from one access point and leave from the other.

(d) No design for an access drive shall be approved which is likely to create substantial traffic hazards which might endanger the public safety. A review of possible hazards and threats to public safety by the planning agency may result in imposition of safety requirements and conditions upon the developer, including traffic control devices, acceleration or deceleration lanes, turning lanes, traffic and lane markings, and signs. The developer shall be responsible for the construction of any such required devices or features.

(e) All access drives shall be paved with concrete or bituminous paving material, or with other material satisfactory to Borough Council.

C. Private access drives. Any parcel of land existing as of the effective date of this chapter to which access is provided by means of a private drive or private right-of-way which serves as an access drive may be subdivided with that access drive remaining private only if proof of agreement as to responsibility for maintenance of the access drive is presented prior to final plan approval, after having met with approval of the planning agency. That agreement shall be recorded in the office of the Recorder of Deeds of Adams County, and shall be executed by all property owners who are to use that private access drive. Otherwise, the developer shall provide access to all lots resulting from that act of subdivision by means of a minor street, meeting the requirements for minor streets in this chapter. That minor street may be located wholly or in part upon the private drive or right-of-way referred to in the first sentence of this subsection, and shall conform to all requirements of this chapter for minor streets, including, but not limited to, the prohibition against dead-ending.

§ 190-25. Off-street parking and loading facilities.

In addition to provisions in Chapter 215, Zoning, the following requirements shall apply to off-street parking and loading facilities in subdivisions:

A. Parking facilities. Off-street vehicular parking facilities shall be in conformity with the following standards:

(1) Commercial and industrial parking areas shall be arranged and marked for the safe movement, loading, parking and storage of vehicles and shall be provided with adequate lighting facilities. Lots shall be illuminated whenever, during hours of darkness, the commercial or industrial structure served by the parking facilities is open for business or in use by customers, patrons or employees.

(2) If determined necessary by the planning agency, commercial and industrial parking areas which provide more than five parking spaces shall be screened from any abutting property used for residential purposes. Screening may be accomplished by the placement of adequate buildings, a solid fence high enough to provide screening, and/or provision and maintenance of solid planting, the selected screening method to conform to height and location provisions of Chapter 215, Zoning.

(3) Any lighting used to illuminate any parking area, whether residential, commercial or industrial, shall be arranged so as to reflect the light away from adjacent premises and public rights-of-way.

B. Loading and unloading facilities. All commercial and industrial establishments shall provide off-street loading and unloading, and vehicle storage areas adequate for their needs. This required space shall be provided in addition to spaces required for patron, customer and employee parking.

§ 190-26. Sidewalks, curbs and gutters.

A. Sidewalks. Sidewalks, in conformity to Borough specifications, shall be required on both sides of all streets in a subdivision.

B. Curbs and gutters. Curbs, or, if stipulated by the planning agency, combined curbs and gutters, shall be required on both sides of all streets in the subdivision.

§ 190-27. Blocks.

A. Length, width and shape of blocks. The length, width and shape of blocks shall be determined with due regard for:

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

(2) Topography.

(3) Any other ordinances, plans or codes in force in the Borough.

(4) Provision for safe and convenient vehicular and pedestrian circulation, including the reduction of intersections with major streets.

B. Maximum and minimum width of blocks. In so far as practicable, blocks shall have a maximum length of 1,600 feet and a minimum length of 500 feet. In the design of blocks longer than 1,100 feet, special consideration shall be given to the requirements of satisfactory fire protection.

C. Depth of blocks. Residential blocks shall be of sufficient depth to accommodate two tiers of lots except:

(1) Where reverse frontage lots border a major traffic street;

(2) Where prevented by the size, topographical conditions or other inherent conditions of property, in which case the planning agency may approve a single tier of lots.

D. Crosswalks and interior walkways. Crosswalks or interior walkways may be required where necessary to assist circulation or to provide access to community facilities. Those crosswalks or walkways shall have a width of not less than 10 feet and a paved walk surface of not less than four feet, and the planning agency may require that lighting facilities be provided.

E. Commercial and industrial blocks. Blocks in commercial and industrial areas may vary from the elements of design detailed above, if required by the nature of the use. The block layout shall be designed with reference to service of the public. In all cases, adequate provision shall be made for off-street parking and loading areas, as well as traffic circulation for employees, patrons and customers.

§ 190-28. Lots.

A. General provisions.

(1) The size, shape and orientation of lots shall be appropriate for the type of development and use contemplated, and shall be governed by this section, except in respect to matters covered in Chapter 215, Zoning.

(2) In so far as practicable, side lot lines shall be at right angles to straight street lines and radial to curved street lines.

(3) The depth of lots shall, with certain exceptions approved by the planning agency, be not less than one nor more than 2 1/2 times their width.

(4) Where any lots in a subdivision are large enough for resubdivision or where a portion of the tract is not developed, suitable access to those areas shall be provided.

(5) The depth and width of parcels intended for nonresidential uses shall be adequate for the use proposed and sufficient to provide satisfactory space for on-site parking, loading and unloading; for required yards; and for landscaping, access and egress.

(6) If, after providing for subdividing, there remain remnants of land, those remnants shall either be incorporated into existing or proposed lots, or, if acceptable to the Borough, be legally dedicated to public use.

(7) No lot shall, in any manner whatsoever, be created which does not meet the minimum requirements of this chapter.

B. Lot frontage.

(1) Every lot shall front upon a dedicated public street (existing or proposed), or on a fully approved private street constructed to specifications prescribed by this chapter.

(2) Double- or reverse-frontage lots shall be avoided except:

(a) Where desired in order to prevent direct vehicular access to collector or arterial streets; or

(b) To overcome specific disadvantages of topography, orientation or location.

(3) Where lots face on an interior street and back on a major thoroughfare, a planting screen at least 10 feet wide shall be provided along the back of the lot. No right of access may open onto or through the screen.

(4) Corner lots designed for residential use shall have extra width to permit appropriate building setback providing orientation to both streets. Where the side line of such a corner lot faces a major thoroughfare or arterial street, a planting screen, as described in Subsection B(3) directly above, may be permitted.

C. Unique lots.

(1) The minimum required lot area shall be increased for lots on slopes based on reports from the Pennsylvania Department of Environmental Protection and the

Soil Conservation Service indicating that, because of slope, surface runoff or subsurface drainage of septic tank effluent is likely to result in hazardous conditions.

(2) In the case of wedge-shaped lots, no lot shall be less than 35 feet in width, measured along the arc at the front street right-of-way line.

(3) "Flag lots" or "panhandle lots," or lots with a narrow strip of land for the sole purpose of providing access to a street from a lot that would not otherwise front on a street, are prohibited unless no other reasonable method of providing access is available. In no case should this be used as a method of avoiding construction of a street. Minimum width of the panhandle, including frontage, shall be 25 feet.

§ 190-29. Sanitary sewers and water supply.

A. Sanitary sewers. All properties in the subdivision shall be connected to a public sanitary sewer system of adequate capacity to serve the development, as prescribed in § 190-32H.

B. Water supply. The development shall be served by a public water supply, as prescribed by § 190-32G of this chapter.

C. Fire hydrants. Fire hydrants shall be provided in all subdivisions as an integral part of the water system. They shall be placed at intervals of not more than 600 feet and shall be located within 600 feet of any dwelling unit or structure open to the public.

§ 190-30. Storm drainage.

Stormwater drainage shall conform to the provisions of Chapter 182, Stormwater Management, and to provisions of § 190-32I of this chapter.

§ 190-31. Easements and rights-of-way.

Easements and/or rights-of-way shall be provided for drainage and utility facilities, and for certain existing transmission lines.

A. Drainage easements. Drainage easements shall be adequate to serve the purpose for which they are intended. They shall preserve the unimpeded flow of natural drainage or provide for the construction of drainage facilities. In no case shall they be less than 20 feet wide, and additional width may be required on recommendation of the Borough Engineer.

B. Utility easements. Easements with a minimum width of 15 feet shall be provided for poles, wires, conduits, storm and sanitary sewers, gas, water and heat lines and other utility lines intended to service the abutting lots. Additional width shall be required by the planning agency when so warranted by the purpose and use of the easement. All electric, telephone and other utility lines hereafter located in the development shall be placed underground in such easements. Where possible, easements shall be centered on side or rear lot lines.

ARTICLE VI
Required Improvements and Construction Standards

§ 190-32. Required improvements.

The subdivider shall provide the following improvements in his development. Except where otherwise provided in this section, all improvements shall be constructed according to the specifications set forth in the "Construction Standards, Borough of McSherrystown," prepared by Nassaux-Hemsley and dated September, 1985.

A. Monuments and markers.

(1) Monuments shall be required and shall be set:

(a) At the intersections of all street right-of-way lines;

(b) At the intersections of lines forming angles in the boundaries of the subdivision;

(c) At such intermediate points as may be required by the Borough Engineer.

(2) Monuments shall be six inches square or four inches in diameter and shall be 30 inches long. They shall be made of concrete or stone or by setting a four-inch cast-iron or steel pipe filled with concrete.

(3) Markers shall be required and shall be set:

(a) At all lot corners except those monumented;

(b) Prior to the time when the lot is offered for sale.

(4) Markers shall be 3/4 of an inch square or 3/4 of an inch in diameter, and 15 inches long. They shall be made of iron pipes or iron or steel bars.

(5) Monuments and markers shall be placed so that the scored or marked point coincides exactly with the point of intersection of the lines being monumented. They shall be set so that the top of the monument or marker is level with the finished grade of the surrounding ground. Monuments shall be marked on the top with a copper or brass plate or dowel set in the concrete.

(6) Any monuments or markers that are at any time removed shall be replaced at the expense of the person removing them. The work of replacement shall be done by a registered engineer or surveyor.

B. Streets.

(1) Construction and surfacing of streets. Streets shall be constructed by the developer, and shall be surfaced to the grades and dimensions shown on the plans, profiles and cross sections submitted by the developer to the Borough agency with the preliminary and final plans as approved by the planning agency. Before paving the street surface, the developer shall be responsible for installing the required utility mains, pipes, fixtures and appliances, and shall provide, where necessary, storm drainage in conformity with Chapter 182, Stormwater Management.

(2) Classification of streets. Streets are classified as minor streets, collector streets and arterial streets, with alleys coming within the definition of minor streets. Minor streets are those used primarily for access to and ingress from abutting property. The planning agency shall have authority to determine whether a collector or arterial street is required as a direct result of the construction of the subdivision, in which case the developer is responsible for paving the additional width required.

(3) Street specifications.

(a) Minor and collector streets. Except where otherwise specified, the base course shall consist of six inches of compacted crushed stone, constructed according to specifications of the Pennsylvania Department of Transportation. On the base course shall be emplaced a two-inch binder using No. 2 stone emplaced through the use of a paving machine following the application of a wearing course of 1 1/2 inches conforming to standards of the Pennsylvania Department of Transportation. Concrete may be substituted with prior approval of the planning agency.

(b) Arterial streets. For the construction of arterial streets or highways, the developer shall consult with and be governed by the Pennsylvania Department of Highways.

(4) Private streets. Private streets, that is, streets not offered for dedication, shall not be permitted.

(5) Berms or shoulders. Within the Borough, berms or shoulders shall be permitted only within mobile home parks. There, they shall consist of eight inches of compacted stone, gravel or slag constructed according to applicable specifications of the Pennsylvania Department of Transportation, and coated by a bituminous seal also to conform to Pennsylvania Department of Transportation specifications.

(6) Curbs. Curbs, or where stipulated by the planning agency, combined curbs and gutters, shall be required on both sides of all streets in the subdivision. They shall be constructed in conformity with specifications in the Construction Standards of the Borough of McSherrystown. At every street intersection, ramps to facilitate access to handicapped persons, in conformity with the Borough's construction standards, shall be provided.

C. Sidewalks. Sidewalks shall be constructed on both sides of all streets (but not alleys) in the development by the developer. Sidewalks shall conform to Borough specifications and to other pertinent ordinances, and, as to placement and width, to requirements prescribed by the planning agency.

D. Streetlighting.

(1) Streetlights shall be required at every street intersection, and shall be located and positioned as directed by the planning agency and in conformity to Borough specifications.

(2) As an alternative to the streetlights referred to in Subsection D(1) directly above, an individual and uniform light standard may be erected at the front of every lot on

which a residential building is to be constructed. The standard is to be located and positioned according to Borough specifications. In case of a semidetached dwelling, the light standard shall be erected at the point along the front line of the property directly in front of the midpoint of the two dwelling units. In case of nonresidential property, the individual lighting standards shall conform to special requirements prescribed by the planning agency, suitable for and applicable to the individual property.

(3) Where electric service is provided by underground facilities, the developer, prior to the installation of streets, curbs and sidewalks, shall provide and install conduits where necessary to accommodate the installation of a streetlighting system. Installation and location of conduits shall comply with the specifications of the appropriate public utility.

E. Street name signs. Street name signs shall be placed at one corner of every subdivision on posts of such size, material, and height as prescribed by the planning agency, the specifics based upon consideration of the area, nature and size of the subdivision, the location of the intersection and the visibility of the sign to vehicular and pedestrian traffic.

F. Street trees. Where a developer proposes to plant trees along a street, or where the planning agency directs that trees be so planted by the developer, the trees shall be planted at intervals as prescribed by the planning agency, and shall be of species approved by the planning agency on the basis of suitability for the climate, growth patterns, character of roots, density of foliage, and lack of objectionable features, such as odor and excessive debris.

G. Water supply.

(1) The development shall be served by a public water system with mains installed at the expense of the developer. The development shall not be approved by the planning agency until the developer presents evidence from the water supplier that is proposed to serve the development, that it is willing and able to extend the water mains so as to serve all lots in the development, and has the capacity to supply an adequate amount of water for the type of development proposed.

(2) The fire hydrants that shall be provided as an integral part of every subdivision shall:

(a) Be placed at intervals of not more than 600 feet;

(b) Be located within 600 feet of any dwelling unit or structure open to the public;

(c) Conform to current specifications of the National Fire Protection Association;

(d) Be installed under supervision of the Borough Fire Chief, provided that when the provisions of Subsection G(1) directly above have been carried out, and any dwelling unit or structure open to the public, because of distance from the street, is not within the six-hundred-foot distance referred to in this Subsection G(2), private fire hydrants to protect the building or structure, and

installed in conformity to Subsection G(2)(c) and (d) shall be installed by the owner of the property.

H. Sanitary sewers.

(1) All properties in the development shall be connected to a public sanitary sewer system, and the developer shall be responsible for installing sewer lines or mains, as well as lateral to the curbline to provide adequate service to each lot.

(2) The developer shall consult with the municipality, municipal authority or other agency providing sewer service in the area, and shall furnish to the planning agency documentation as to the readiness of that municipality, municipal authority or other agency to extend sewer lines to the development, and stating any specific needs for special fixtures and facilities to enable the sanitary sewage from the development and the buildings to be constructed in it to be transported through those lines to the point of disposal. No approval of the proposed sanitary sewerage facilities for the development shall be given by the planning agency until it is satisfied with the construction standards and methods and the potential operating capacity of the sanitary sewers to be provided for the development.

(3) Before constructing any sanitary sewer facilities in the development, formal application shall be made by the developer to the Pennsylvania Department of Environmental Protection, and the necessary permits shall be obtained.

(4) When installing sanitary sewers, construction shall conform to Borough specifications. Upon completion of the sanitary sewer installation, a reproducible as-built plan of the system shall be filed with the Borough.

I. Storm drainage. Storm drainage facilities shall be required as prescribed by Chapter 182, Stormwater Management, as amended, and the procedures stated therein shall be followed by the developer.

J. Easements and rights-of-way. Easements and rights-of-way shall be provided and dedicated by the developer for drainage purposes and for location of utility lines, as provided by § 190-31A and B of this chapter. Such easements shall be located in consultation with the planning agency, and, depending upon their intended usage, the Borough Engineer, the Pennsylvania Department of Transportation and the Department of Environmental Protection, and the utility companies whose lines are to be located in easements.

K. Parks and recreational facilities.

(1) This subsection applies to any subdivision:

(a) For which no plan applicable, whether preliminary or final, is pending at the time of enactment of this chapter;

(b) Is to be developed predominantly for residential purposes; and

(c) After subdivision will comprise more than two lots.

(2) In developments meeting the criteria set out in Subsection K(1) of this section, public dedication of land, suitable for the purpose, shall be required. Upon agreement between the planning agency, acting for the Borough, and the applicant or developer, the construction of recreational facilities, the payment of fees by the developer in lieu thereof, the private reservation of land or a combination thereof, for park and/or recreational purposes, are required as a condition precedent to final plan approval.

(3) The land to be dedicated shall constitute a total of 5% of the total acreage of the subdivision, the precise percentage to be based upon the projected population density of the development, and may either be a single tract, or two or more tracts, contiguous or located in different parts of the development. The land shall be accessible to the development, and adaptable for active and/or passive recreation by persons residing in the area. In selecting the land, consideration shall be given to the various age groups, family characteristics and interests of the persons likely to reside in the area, and also to the desirability of providing, within the development and accessible to the built-up and inhabited areas, places for group activities, gatherings and recreation, with facilities for the intended uses, as well as facilities for personal enjoyment of natural surroundings. In addition, there should be an aim to provide for use of the facilities for varied purposes in all seasons of a typical year.

(4) When the subdivider does not develop the park and recreational facilities on the land to be dedicated for the purpose, along with the other improvements and facilities to which this § 190-32 applies, he shall deposit with the Borough a fee in the amount of $250 multiplied by the number of lots in the development to be built upon or offered for sale; provided, however, that the planning agency may require that specified land in the development be dedicated for park and recreational purposes in lieu of payment of the fee prescribed herein.[16]

(5) The land or the fees, or a combination of them, shall be used only to provide a park or recreational facilities accessible to the development.

(6) The fee authorized under Subsection K(4) of this section shall, upon its receipt by the Borough, be deposited in an interest-bearing account, clearly identifying the specific recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of the specific account. Funds from such accounts shall be expended only in properly allocable portions of the cost incurred to construct the specific recreation facilities for which the funds were collected.

(7) Upon request of any person who paid any fee under this subsection, the Borough shall refund the fee, plus interest, if the Borough has failed to use the fee paid for the designated recreational and/or park purposes within three years from the date when the fee was paid.

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16. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

§ 190-33. Responsibility for installation and dedication of improvements.

The final responsibility for the installation of the improvements required by this chapter rests with the applicant. Upon installation of the required improvements, in accordance with the specifications of the approved plan and the Borough Engineer, the applicant shall take the final steps to dedicate the improvements for acceptance by the Borough.

§ 190-34. Completion of improvements or guarantee prerequisite of final plan approval.

A. No plan shall be fully approved by the Borough unless the streets shown on the plan have been improved as required by this chapter, and all sidewalks or other walkways, curbs, gutters, streetlights or individual lot lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers, and other improvements prescribed and required by this chapter have been installed and completed as prescribed and required.

B. In lieu of the completion of any specific improvement required as a condition for final approval of a plan, the developer shall deposit with the Borough a corporate bond or other financial security acceptable to Council, as recommended by the Borough Engineer and the Borough Solicitor, in an amount sufficient to cover the cost of any improvements required and not completed, plus 10%. The type of financial security acceptable for the purpose may be that set out in Section 509(c) of the Planning Code,[17] and that security shall be posted with a bonding company or with a federal or commonwealth chartered lending institution chosen by the party posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth. The bond or other security shall provide for, and secure to the public, the completion of all improvements that may be required on or before the date fixed in the formal action of approval or the accompanying agreement for completion of the improvements, provided that if water mains or sanitary sewers, or both, along with related apparatus or facilities, are to be installed under the jurisdiction of and pursuant to the rules and regulations of a public utility or a municipal authority separate and distinct from the Borough, financial security to insure the proper completion and maintenance thereof shall be posted in accordance with the regulations of the public utility and/or municipal authority, as the case may be, and shall not be included within the financial security as otherwise required by this subsection; provided, further, that if financial security is provided in lieu of completion of improvements required as a condition for the final approval of a plan, the issuance of building, grading or other permits relating to the completion or placement of improvements, including buildings, upon the lots depicted upon the final plan, shall not be conditional upon completion of the improvements shown on the final plan. Furthermore, occupancy permits for buildings to be erected shall not be withheld where streets have been improved to certain standards prescribed in Section 509(m) of the Planning Code,[18] and certain other necessary improvements prescribed in that subsection have been installed.

C. When requested by the developer, in order to facilitate financing, Council shall furnish the developer with a signed copy of a resolution indicating approval of the final plan,

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17. **Editor's Note: See 53 P.S. § 10509.**

18. **Editor's Note: See 53 P.S. § 10509.**

contingent upon the developer's obtaining satisfactory financial security. The final plan or record plan shall not be signed or recorded until the financial security agreement has been executed. The resolution or contingent approval letter shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days, unless Council grants a written extension, which shall not be withheld unreasonably, and shall be reduced to writing at the request of the developer.

D. The amount of the financial security to be posted for the completion of the required improvements shall be, as stated in Subsection B of this section, equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. The Borough may annually adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed with the estimated cost for the completion of the remaining improvements as of the end of the 90th day after either the original date scheduled for completion or a rescheduled completion date, as the case may be. Following that adjustment, the Borough may require the developer to post additional security so that the financial security equals 110% of the estimated cost of remaining improvements. Any additional security shall be posted by the developer in accordance with this section.

E. 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, prepared by a professional engineer, and certified by that engineer to be a fair and reasonable estimate of that cost. The Borough, upon recommendation of the Borough Engineer, may refuse to accept that estimate for cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, the estimate shall be recalculated and recertified by another professional engineer who shall be chosen mutually by the Borough and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable, and shall be the final estimate. If a third engineer is so chosen, fees for his services shall be paid equally by the Borough and the applicant or developer.

F. If the party posting the financial security requires more than one year from the posting date 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, or to an amount not exceeding 110% of the cost of completing the required improvements as established on or about the expiration date of the preceding one-year period by using the procedure set out in Subsection E of this section.

G. In any case where development is projected over a period of years, the planning agency may authorize submission of the plan by sections or stages, subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

§ 190-35. Release from improvement bond.

A. Release upon completion of all improvements.

(1) When the developer has completed all required improvements, he shall notify Borough Council, in writing, by certified or registered mail, of the completion, and

shall send a copy of the notice to the Borough Engineer. Within 10 days after receipt of the notice, Council shall notify the Borough Engineer to inspect all the required improvements. Within 30 days after the Engineer receives the notice from Council, and after he has made the inspection referred to in the notice, the Engineer shall file a report, in writing, with Council, and shall promptly send a copy of that report, by certified or registered mail, to the developer. The report shall be detailed, and shall indicate approval or rejection of the required improvements, either in whole or in part. If the improvements, or any part of them, are not approved by the Engineer, and are rejected by him, the report shall contain a statement of the specific reasons for the rejection and the failure to approve.

(2) Within 15 days after receipt by Council of the Engineer's report, Council shall notify the developer, by certified or registered mail, of the action of Council with reference to that report.

(3) If Council or the Borough Engineer fails to comply with any time limitation provision contained in this section, all improvements covered in Subsection A(1) of this section shall be deemed to have been approved, and the developer shall be released from all liability pursuant to his performance guarantee bond or other security agreements pertaining to those improvements.

(4) If any portion of the improvements shall not be approved, or shall be rejected, by Council, the developer shall proceed to complete those improvements, and, upon completion, the same procedures of notification and inspection prescribed in the above provisions of this Subsection A shall be followed.

(5) Nothing in this section shall be construed in limitation of the developer's right to contest or question, by legal proceedings or otherwise, any determination of Council or the Borough Engineer.

(6) Whenever the term "Borough Engineer" is used in this subsection, it may mean either the actual person appointed to and serving as Borough Engineer, or an additional professional engineer who, with approval of Council, is serving as consultant to the Borough Engineer.

B. Partial release upon completion of portions of required improvements. As the work of installing the required improvements proceeds, the party posting the financial security may request Council, in writing, to release, or authorize the release, from time to time, of such portions of the financial security necessary for the payment of the contractor or contractors who performed the completed work. Council shall have 45 days after receipt of the request to allow the Borough Engineer to certify to Council, in writing, that that portion of the work upon the improvements has been completed in accordance with the approved plan. Upon such certification by the Engineer, Council shall authorize release by the bonding company or lending institution of an amount that the Borough Engineer estimates fairly represents the value of the improvements completed. If Council fails to act within the forty-five-day period, Council shall be deemed to have approved the release of funds as requested. Council, prior to final release at the time of completion and certification by the Borough Engineer, may require retention of 10% of the estimated cost of the improvements referred to in this subsection.

§ 190-36. Remedies to effect completion of improvements.

If any of the required improvements are not installed as provided in this chapter or in accord with the approved final plan, Council may enforce any corporate bond or other security by appropriate legal and equitable measures. If the proceeds of the bond or other security are not sufficient to pay the cost of installing or making repairs or corrections to all improvements covered by that security, Council may, at its option, install part of those improvements in all or part of the 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 legal or equitable action against the developer, or both, shall be used solely for the installation of the improvements covered by the security, and not for any other municipal purpose.

§ 190-37. Dedication of improvements.

A. Effect of recording of final plan. The recording of the final plan has the effect of an irrevocable offer to dedicate to public use all streets and other public ways and all public areas, and to reserve for possible future public acquisition such additional areas as may be required by the Borough; provided, however, that the offer to dedicate streets or other areas or portions of them does not impose any duty upon the Borough concerning maintenance or improvement until the proper authorities of the Borough have made actual appropriation by ordinance or resolution or by entry and improvements.

B. Maintenance guarantee. Where Council accepts dedication of all or some of the required improvements following completion, Council may require the posting of financial security to secure structural integrity of those improvements as well as the functioning of those improvements in accordance with the design and specifications as depicted on the final plan for a term not to exceed 18 months from the date of acceptance of dedication. The financial security shall be of the type as otherwise required in § 190-33 with regard to installation of those improvements, and the amount of the financial security shall not exceed 15% of the actual cost of the installation of those improvements. "Defective improvements," as referred to in this subsection, include any defect in material or workmanship that was latent in character and not discernible at the time of final inspection or acceptance by the Borough, and/or any damage to improvements by reason of the settling of ground, base or foundation thereof. However, any damage to the street surface caused by tire chains, snow removal equipment or utility cuts by others are not the responsibility of the developer.

C. Reserved sites. If land is dedicated for a public site and its use for that purpose is not imminent, the developer may be permitted to dedicate the land with the privilege of using the surface rights until the Borough is ready to use the land. Such dedication, with the temporary privilege of use, shall be noted on the final plan. In sites reserved for eventual acquisition, no building development is permitted during the period of reservation, that period of time not to extend for longer than 18 months without the consent of the developer. That land reservation shall also be noted on the final plan.

ARTICLE VII
Mobile Home Parks

§ 190-38. Legal authority and scope.

This article is enacted pursuant to authority granted to municipalities by Section Four of the Act of 1972, P.L. 333, No. 92, which amended Section 501 of the Planning Code, and, being further amended by Section 30 of the Act of 1988 P.L. 1329, No. 170,[19] stated that provisions regulating mobile home parks are to be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to Article V of the Planning Code, or to any planned residential development provisions enacted pursuant to Article VII. Mobile home parks in existence in the Borough as of the effective date of this chapter shall be required to meet only the standards of Borough ordinances that were in effect at the time the initial development was approved or established. Those standards included Ordinance No. 76, enacted February 19, 1976, which established a minimum lot size of 5,000 square feet for each mobile home; and Section 1108 of the Borough's Zoning Ordinance (Ordinance 1983-6, enacted September 12, 1983), which established standards and criteria for mobile home parks. All other minimum standards prescribed in this article shall be applicable only to those mobile home parks which are constructed or expanded after the effective date of this chapter.

§ 190-39. Definitions. [20]

For the definition of words relating to land development as a mobile home park, the definitions set out in Article II of this chapter shall apply.

§ 190-40. Application, processing and plan requirements.

The procedures and plan requirements set out in Article III and Article IV of this chapter shall apply to construction, alteration and/or extension of a mobile home park. These shall apply in addition to the permit requirements contained in § 190-41.

§ 190-41. Permit requirements.

A. It shall be unlawful for any person to construct, alter or extend any mobile home park unless a valid permit has been issued by the Pennsylvania Department of Environmental Protection in the name of that person for the specific construction, alteration or extension that is proposed.

B. Copies of the application for a permit submitted to the Pennsylvania Department of Environmental Protection shall be concurrently filed with the Borough planning agency. The application shall be accompanied by a plan drawn at a scale not less than one inch equals 50 feet and containing the following information:

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19. **Editor's Note: See 53 P.S. § 10501.**

20. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**

(1) All information as required by the Department of Environmental Protection.

(2) Name of mobile home park, if any.

(3) Name and address of the owner of record and/or the applicant.

(4) Name of engineer, surveyor or other qualified person preparing the plan.

(5) North arrow, scale, and date of plan preparation.

(6) Location map.

(7) Site data:

(a) Number of mobile home lots.

(b) Total number of acres.

(c) Number of lots per acre.

(d) Number of off-street parking spaces.

(8) Topography, showing existing and proposed contours at intervals of two or five feet, depending upon the slope of the land.

(9) The location of any existing bodies of water or watercourses, floodplain areas, tree masses, buildings or structures, public facilities and any man-made or natural features within or near the proposed mobile home park.

(10) A storm drainage plan and storm drainage calculations. (See § 190-32I of this chapter.)

(11) Existing and proposed property, lot and boundary lines, including building setback lines, and information concerning lot dimensions, lot areas, the location of all utilities, and the street number assigned to each lot.

(12) Locations and dimensions of all mobile home stands.

(13) The location of all existing and proposed streets, with information concerning pavement widths, types of paving, and street names.

(14) Typical cross section of all streets.

(15) Street center-line profiles.

(16) Location of all off-street parking areas.

(17) Location and dimensions of all pedestrian walkways and sidewalks.

(18) Location of proposed recreation areas.

(19) Location of all plantings and landscaping.

(20) Location, dimensions and proposed use of all service and accessory structures.

(21) Engineer's or surveyor's seal with certification that the survey and plan are correct.

(22) Block for approval by planning agency.

C. Any and all applicable fees as required by the fee schedule set out in § 190-45 of this chapter shall be paid by the applicant.

D. Action on the application and plan shall be taken in the same manner as required by Articles III and IV of this chapter.

§ 190-42. Site and structure standards.

A. Park site. The site of every mobile home park shall conform to the following requirements:

(1) Location.

(a) The site shall be free from adverse influence by swamps, marshes, refuse disposal areas or other potential breeding places for insects or rodents.

(b) The area shall not be subject to flooding.

(c) The site shall not be subject to any hazard or nuisance, such as excessive noise, vibration, smoke, toxic matter, heat, odor or glare.

(2) Drainage.

(a) The ground surface in all parts of the park shall be graded and equipped to drain surface water in a safe, efficient manner. Where necessary storm sewers, culverts, and related facilities shall be provided to permit the unimpeded flow of natural watercourses and to insure the adequate drainage of all locations within the park.

(b) A drainage plan (as required under § 190-32I of this chapter) shall be prepared and submitted for review and approval by the planning agency along with the mobile home park plan.

(c) All stormwater facilities shall be kept completely separate from any sanitary waste facilities.

(3) Soil and ground cover.

(a) Exposed ground surfaces in all parts of every mobile home park shall be paved or shall be planted with a vegetative growth that is reasonably capable of preventing soil erosion at all times and also the emanation of dust in dry weather.

(b) All paving and planting referred to Subsection A(3)(a) directly above shall be designed in accordance with the Borough's storm drainage plan.

(c) Park grounds shall be maintained free of vegetative growth that is poisonous or which may harbor rodents, insects, or other pests harmful or annoying to human beings.

(4) Areas for nonresidential uses.

(a) No part of any park may be used for nonresidential purposes, except for those uses that are required for recreation, direct access and servicing, management or maintenance of the park and/or for its residents.

(b) Nothing contained in this subsection shall be deemed as prohibiting the sale of a mobile home located on a mobile home lot and connected to utilities.

(5) Setbacks, buffer strips and screening.

(a) Mobile homes in parks shall be located at least 80 feet from the center line of any abutting existing or proposed public minor street, and at least 80 feet from the center line of any abutting existing or proposed collector street.

(b) There shall be a minimum distance of 35 feet between an individual mobile home, including accessory structures attached to it, and the center line of an abutting park street.

(c) Mobile homes shall be located:

[1] At least 25 feet from any park property line;

[2] At least 10 feet from any rear mobile home lot line;

[3] A total of 20 feet from the two side lines of the mobile home lot, with neither side being less than five feet.

(d) Mobile homes, including any additions or accessory structures attached thereto, shall be separated from each other and from other buildings, by at least 20 feet on all sides.

(e) Mobile homes located adjacent to any nonresidential land use shall be required to have screen planting of trees and/or shrubs, along the property line separating the park from that adjacent use.

(6) Street system. All streets within a mobile home park shall conform to the following standards:

(a) Provisions shall be made for safe and convenient vehicular access to and egress from abutting public streets.

(b) Streets shall be located and built with regard to:

[1] Providing convenient access to each mobile home lot and to all other facilities of the park;

[2] Recognizing existing easements which are to be preserved.

(c) The entrance road or area connecting the park with a public street shall have a minimum paved width of 35 feet.

(d) Internal park streets other than the entrance street shall have the following characteristics:

[1] They shall be privately owned and maintained.

[2] They shall be constructed in accordance with Borough specifications for mobile home park streets.

[3] Every street shall be provided with a street name and a street name sign in accordance with the provisions in §§ 190-23L and 190-32E of this chapter. Lot numbers shall be displayed in an easily visible and uniform location on each mobile home lot in the front year at least four feet above the ground.

[4] The minimum cartway width shall be 16 feet.

[5] Stabilized shoulders, 10 feet wide, may be provided on one or both sides of the cartway, and where such shoulders are provided, parking may be permitted on the shoulder, but in no case on the paved cartway; provided, however, that even where shoulders exist, parking may be prohibited on them for safety purposes at specified locations.

[6] At the closed end of any street, a paved turnaround with radius of at least 60 feet shall be provided.

(e) Grades of all streets shall be at least 0.5% and not more than 8.0%.

(f) Intersections of more than two streets are prohibited.

(g) Within 100 feet of an intersection, streets shall be approximately at right angles. In no case shall streets intersect at less than 75°.

(h) If intersecting streets are not in alignment, a distance of at least 125 feet shall be provided between the center lines of the intersecting streets.

(i) Minimum curb or edge of pavement radii at intersections shall be as follows:

[1] Minor street with minor street: 15 feet.

[2] Minor street with collector street: 20 feet.

[3] Collector street with collector street: 20 feet.

(7) Pedestrian walks.

(a) All mobile home parks shall be provided with pedestrian walks on both sides of the street. They shall be constructed of concrete, according to Borough specifications, and shall be at least three feet wide, except that, where a pedestrian walk in a mobile home park is a continuation of an existing walk of greater width, the width shall be the same as that existing walk.

(b) Every mobile home lot shall be connected to a pedestrian walk that is adjacent to a street by an individual walk at least two feet wide.

(8) Off-street parking areas.

(a) A paved off-street parking space for two motor vehicles shall be provided at each mobile home lot.

(b) In addition to the parking spaces at each mobile home lot, one or more paved overflow and visitors' parking areas shall be provided in every mobile home park, with a total of at least 1/2 parking space for each mobile home lot planned.

(9) Mobile home lots.

(a) Every lot shall abut upon and be accessible from a park street.

(b) Every mobile home lot within a park shall have the following minimum dimensions:

[1] Minimum area: 5,000 feet.

[2] Minimum width at any point: 45 feet.

(c) Every mobile home lot shall be improved to provide a mobile home stand and an adequate frost-free foundation for the placement of the mobile home unit.

(d) Individual lots in a mobile home park shall not be sold separately.

(10) Block lengths. The length of blocks shall not exceed 900 feet.

(11) Streetlights.

(a) In any mobile home park of five or more units, streetlights shall be required at a separation distance of not more than 300 feet.

(b) In lieu of requiring streetlights in parks with five or more units, or when considering a proposal for a park with less than five units, the planning agency may require individual lot lights for each lot.

(12) Recreation areas. In all mobile home parks, one or more recreation areas shall be provided and maintained within the park for use of all park residents. Those recreation areas:

(a) Shall be located so as to be reasonably accessible to all park residents;

(b) Shall not be located in any area that is unsuitable for the purpose or is hazardous;

(c) Shall not include less than 10% of the gross area of the park.

B. Water supply.

(1) An adequate supply of safe water of satisfactory quality under adequate pressure shall be provided in all mobile home parks, to all mobile homes, service buildings and other accessory buildings.

(2) Where a public water supply system of satisfactory quantity, quality and pressure is available, connection shall be made to that system, and its supply shall be used exclusively.

(3) Where a satisfactory public water supply system is not available, water shall be provided by a private water supply system which is approved by the Pennsylvania Department of Environmental Protection.

C. Sewage disposal.

(1) A public sewage disposal system approved by the Pennsylvania Department of Environmental Protection shall be the sole means of sewage disposal.

(2) Sewer lines within the park and sewer connections to all mobile homes and other buildings within the park shall be in compliance with the Borough's Construction and Materials Specifications for Land Development (or in compliance with Borough ordinance provisions applicable to buildings located outside of mobile home parks).

D. Other utilities. Electric, telephone and all other utility facilities shall be provided as necessary within every mobile home park. Those utilities shall be installed underground in accordance with the local utility company's specifications regulating such systems.

E. Service buildings and other community service facilities.

(1) Applicability. The requirements of this Subsection E shall apply to service buildings, recreational buildings and other community service facilities, such as:

(a) Management offices, repair shops and storage areas.

(b) Laundry facilities.

(c) Indoor recreation areas.

(d) Commercial uses supplying essential goods or services for the exclusive use of the park occupants.

(2) Facilities.

(a) Every mobile home park shall have a structure clearly designated as the office of the park manager.

(b) Service and accessory buildings located in a mobile home park shall be used only by the residents of the park.

(3) Structural requirements for buildings. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior parts of buildings shall be of such materials

and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

F. Fire protection.

(1) Local regulations and supervision. The mobile home park areas shall be subject to all Borough ordinances and regulations on fire prevention and fire protection, and the Fire Department shall be provided with a copy of the plan of the mobile home park.

(2) Litter control. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

(3) Fire extinguishers. Portable fire extinguishers of a type approved by the Fire Chief shall be kept in public service buildings under park control, and a sufficient number, as specified by the Fire Chief, shall be maintained throughout the park in readily accessible and well-defined locations.

(4) Fire hydrants. Fire hydrants shall be installed in accordance with requirements of the Fire Chief and shall be properly maintained.

G. Responsibilities of park management.

(1) The owner of a mobile home park, through its operator or manager, herein designated as the "park management" shall operate the park in compliance with this article and shall provide adequate supervision to maintain the park, as well as its facilities and equipment, in good repair and in clean, safe and sanitary condition.

(2) The park management shall supervise the placement of each mobile home on its mobile home lot, including securing the stability of the mobile home and installing all utility connections.

(3) The park management shall give Borough officials and representatives free access to all mobile home lots, service buildings, and other community service facilities for the purpose of inspection.

(4) The park management shall maintain an up-to-date register containing the names of all occupants of mobile homes in the park, and shall further be subject to the reporting requirements imposed by Borough ordinance upon owners of multiple dwelling units.[21] The register shall be available to any authorized person inspecting the park.

(5) The park management shall prepare and formulate a set of rules and regulations to inform each prospective resident of the park of the park's operating policies. The following is a suggested listing of minimum regulations to be contained in such rules and regulations:

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21. Editor's Note: See Ch. 163, Rental Occupancy Reports.

(a) Number and type of pets allowed and restrictions applicable to keeping pets.

(b) Speed limits and traffic control within the park.

(c) Rent payment provisions and subletting policies.

(d) Refuse collection schedules; refuse storage and placement pending collection.

(e) Vehicular ownership and maintenance restrictions.

(f) Responsibilities of the tenant regarding conduct, including that of children and visitors,

(g) Tenant's responsibilities toward maintenance.

(h) Policies regarding swimming pools mobile home skirting and other lot improvements required by management or desired by tenants.

ARTICLE VIII
Administration and Enforcement

§ 190-43. Enforcement Officer.

It shall be the duty of Council or a Borough official duly authorized by the Council, and referred to here as the Enforcement Officer, to administer and enforce the provisions of this chapter. The Enforcement Officer shall require that the application for a building permit contain all information necessary to enable him to ascertain whether the proposed building, alteration or use is located in an approved subdivision or development. No building permit shall be issued until the Enforcement Officer has certified that the site for the proposed building, alteration, or use complies with all provisions of this chapter and all applicable provisions of the Planning Code, and with the site description on the approved and recorded final plan.

§ 190-44. Modifications and waivers.

A. Council may, upon request of the developer or the planning agency, grant a modification of the requirements of one of more of the provisions of this chapter if a literal enforcement would exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modification will not be contrary to the public interest and that the purpose and intent of this chapter are observed.

B. Council may also grant waivers or modifications of specific minimum standards of this chapter when the literal compliance with mandatory provisions is shown to the satisfaction of Council to be unreasonable, or to cause unnecessary hardship, or when an alternative standard can be demonstrated to provide equal or better results.

C. 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.

D. Council may refer the request for modification or waiver to the planning agency for advisory comments.

E. The planning agency shall have the right to recommend to Council modifications to this chapter in individual cases as may be necessary in the public interest, but in such cases the modifications and the specific reasons for them shall be entered in the minutes of the planning agency, and a copy of this entry shall be submitted to Council. Council may then alter the land development plans and specific changes or modifications therein which it deems necessary, and make its approval subject to those alterations, changes or modifications. If approved by Council, the modifications shall be clearly defined and entered on the final plan and signed on behalf of the Council by the President of Council and attested by the Secretary.

F. Council shall keep a written record of all action on all requests for modifications.

§ 190-45. Fees and charges paid by developer.

A. Filing fees.

(1) The fees payable by the developer for filing and processing, usually referred to as "filing fees," shall be payable by the developer for the use of the Borough, shall be for the use of the Borough, and shall be governed by the following:

(a) Sketch plans. No fee shall be required for filing, processing or review of sketch plans.

(b) Preliminary plans. Where, under this chapter, there are required major engineering data, including, but not limited to, street grades, profiles and drainage plans at the preliminary plan stage, the appropriate fee shall apply to preliminary plan applications. Where applicable provisions of this chapter require major engineering data at the final plan stage, no such fee shall be required for preliminary plan proceedings.

(c) Final plans. Where the fee has been paid at the preliminary plan stage, no fee shall be required for final plan proceeding. Where no fee has been paid at the preliminary plan stage, the appropriate fee schedule shall apply.

(d) Resubmission of plans. Where plans are resubmitted following disapproval by the appropriate governmental agency, no fee shall be charged for resubmission, provided that the re-review involves charges only to those items for which the plans was originally disapproved.

(2) The fees referred to in this subsection shall be based upon the applicable schedule provided for in Subsection (c) of this section.

B. Review fees.

(1) Review fees are those charged by the Borough's professional consultants or engineer for review and report thereon to the Borough, and are based upon the applicable fee schedule referred to in Subsection C of this section. The fees shall

be reasonable and in accordance with the ordinary and customary charges by the Borough Engineer or consultant for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the Engineer or consultant to the Borough when fees are not reimbursed or otherwise imposed on applicants.

(2) The developer shall deposit with the Borough, along with the application accompanying the preliminary plan or the final plan, as the case may be, the sum of $750, to be applied toward the amounts to become due from the developer for review fees. Council shall have authority to pay such fees and costs directly from the deposit. From time to time, the developer shall renew the deposit, in part or in whole, whenever it appears to Council that the fees and costs payable to it are to exceed $750. Any balance remaining in the deposit account of the developer shall be returned to him by the Borough within 20 days after the date when the preliminary plan or the final plan, as the case may be, is approved, or when that plan is disapproved and withdrawn from review.

(3) All fees and costs for engineering and consulting services shall be paid in full by the developer before final approval of the pertinent plan is given.

C. Fee schedules. Fees provided for in this section shall be fixed annually, in fee schedules, by resolution of Council.

D. Inspection fees. The applicant shall reimburse the Borough for reasonable and necessary expense incurred for the inspection of improvements that the developer is required to make as a condition of approval of the final plan. The imposition of such fees shall be governed by Subsection (g) of Section 510 of the Planning Code,[22] as amended, and a schedule of the fees shall be established by resolution of Council.

E. When fees and charges due and payable. The fees and charges referred to in this section will be billed to the developer. No building permit will be issued, nor shall any subdivision or land development plan be approved for any tract of land for which any such fee or charge is outstanding.

§ 190-46. Preventive remedies.

A. In addition to other remedies, the Borough 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 provided in this article.

B. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

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22. **Editor's Note: See 53 P.S. § 10510.**

(1) The owner of record at the time of such violation;

(2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation;

(3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation;

(4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether that vendee or lessee had actual or constructive knowledge of the violation.

C. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

§ 190-47. Violations and penalties.

A. Any person, partnership or corporation who or which violates any provision of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than $500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good-faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall he deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation.

B. District Justices shall have initial jurisdiction in proceedings brought under this section. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

C. Nothing contained in this section shall be constructed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this section.

§ 190-48. Appeals.

The procedure for securing review of any provisions, decision or determination under this chapter is set forth in Section X-A of the Planning Code.

§ 190-49. Erroneous permit or authorization.

A building permit or other permit or authorization, issued or approved in violation of any provision of this chapter, is void without the necessity for any proceedings for revocation. Any work undertaken or use established pursuant to that permit is unlawful. No action may be taken by any board, commission, agency or employee of the Borough purporting to validate such a violation.