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**PART I: TITLE AND COMMUNITY DEVELOPMENT OBJECTIVES**

**100. Title**

This Ordinance shall be known as the “Zelienople Borough Subdivision and Land Development Ordinance,” or as “Subdivision Ordinance.”

**101. Grant of Power**

The requirements of this subdivision ordinance are based in authority granted to municipalities by Section 501 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended.

**102. Purpose**

The purpose of this ordinance, in accordance with Section 501 of the Municipalities Planning Code, is to ensure the following through standard approval procedures and design requirements for all subdivisions and land developments within the Borough of Zelienople.

1. Proper design and installation of public improvements associated with subdivisions and land developments including but not limited to streets and utilities.
2. Proper arrangement of sites to ensure optimal traffic circulation, consequently minimizing impacts on and off site impacts.
3. Pedestrian circulation, both on and offsite, in a manner integrated with existing neighborhoods and business districts.
4. Implementation of the Community Development Objectives through site design and the provision of amenities installed to specified standards, including landscaping, lighting, and parking.

**103. Community Development Objectives.**

This Subdivision Ordinance recognizes the following Community Development Objectives rooted in the Borough’s adopted findings, the Long Range Program for the Borough of Zelienople, August 1966, as amended, and subsequent plans.

- A. Encourage and facilitate safe pedestrian and vehicular circulation.
- B. Facilitate the provision and maintenance of community character through the redevelopment of existing sites in a manner commensurate with community standards relating to site amenities and integration with adjacent sites.
- C. Provide for the proper arrangement of future developments in a manner contemplating future access and development and impacts on adjacent neighborhoods.
- D. Encouraging the preservation of woodlands and hillsides.

- E. Encouraging the preservation of existing business districts and residential neighborhoods through complementary site design standards and amenities.

**104. Compliance Required.**

- A. No subdivision or land development, nor any sanitary sewer, public water supply, street, or access drive associated therewith, shall be recorded or constructed unless in a manner as approved by those approval processes set forth in this ordinance, unless expressly exempted herein.
- B. No transfer of property by deed shall occur unless all deed references are concurrent with plans approved in accordance with the mandates of this ordinance or represent the transfer of lots of record.

**105. Relationship to Other Ordinances and Statutes..**

- A. Where provisions of another Borough ordinance or State or federal statute differ from those provided herein, the stricter shall prevail.

## PART II: DEFINITIONS AND TERMS

### 200. Interpretation and Meaning or Terms.

- A. All words used in this Subdivision Ordinance shall carry their customary definitions except where specifically defined herein.
- B. Words in the singular include the plural, and words in the plural include the singular.
- C. The word "persons" includes a corporation and unincorporated association, partnership or individual.
- D. The words "shall" and "will" are mandatory unless otherwise indicated. The word "may" is permissive. Words used in the present tense include the future tense.
- E. The word "lot" shall include the words "parcel" and "tract."
- F. Words in the masculine gender shall include the feminine gender.
- G. References to "ordinance" or "this ordinance" shall refer to the Borough of Zelienople Subdivision and Land Development Ordinance.

### 201. Definitions.

The following terms shall be interpreted as defined except where expressly defined otherwise:

**ACCESS DRIVE:** A private drive providing access between a public or private street and a parking area within a land development, any drive servicing a non-residential land development or any drive servicing two or more residential dwelling units.

**ACCESSORY STRUCTURE:** Any structure, excepting parking lots, that bears or houses a use incidental or supportive of a principal establishment within the same lot or planned group of non-residential uses.

**ADMINISTRATIVE LAND DEVELOPMENT:** Land Development applications submitted more than one calendar year after the date on which the initial occupancy certificate was issued by the Borough where said occupancy directly followed a land development approval on the respective lot or lots where:

- A. Additions that are 1,000 square feet or less than or equal to 10% of the principal structure shown on the most recent site plan approved by the Council, whichever is less. Where no such plan has been approved, said addition shall be limited to one administrative approval; or
- B. Accessory buildings not expressly exempt from site plan or land development requirements that are equal to or less than 10% of the principal structure, not excepting instances where additional

accessory buildings were constructed or exist that were not approved by the Council through a standard approval process; or

- C. Expansion of parking that is 10% or less than the parking, inclusive of the surface area covered by all access drives and pavement, approved through the last site plan approved by the Council where no change is proposed in terms of site access and circulation. Where no site plan was previously approved, expansion of parking as an administrative approval is limited to one such approval; or
- D. Revisions to the landscaping or lighting plan approved by the Council.

**ADMINISTRATIVE SUBDIVISION:** Subdivisions that shall be administered by the Plan Administrator with an informal review by the Planning Commission Chair and Council President which conform to one of the following criteria:

- A. The consolidation or combination of two or more lots of record.
- B. A subdivision involving a lot line change between two existing lots that will result in only two lots, where all lots lie within the same zoning district, and where resulting lots conform to Zoning Ordinance requirements in terms of minimum lot size and setbacks.
- C. The subdivision of dwelling unit lots relating to a condominium arrangement or unit lots, the finalization of which relies upon as-built surveys and results in no material change, wherein the existing plan was granted final subdivision or land development approval under this Ordinance.

**ADVISORY:** A meeting, as requested by an individual who intends to act as an applicant for subdivision or land development either with the Plan Administrator and applicable staff, or with the Planning Commission at a publicly advertised meeting, wherein the Plan Administrator or the Commission offer verbal commentary on design principles and proposals presented by the potential applicant.

**ALLEY:** A service road that provides secondary means of through access to lots.

**AMENITIES BONDS:** Financial Security required by this ordinance for private improvements.

**APPLICANT:** an individual bearing a proprietary interest in a particular site, who makes formal application for a subdivision or land development, in accordance with this Ordinance.

**APPROVAL WITH CONDITIONS:** An approval granted with conditions found by Council to represent the minimal conditions necessary and reasonable to ensure the objectives and standards of this Ordinance are met in the approval of the related plan, as accepted by the applicant in accordance with this ordinance.

**AVERAGE DAILY TRAFFIC (ADT):** Traffic volume calculated in accordance with the most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual.

**BUILDING:** A structure having a roof intended for the support, enclosure, shelter or protection of persons, animals or property; or a combination of materials to form a permanent structure having walls and a roof, including all manufactured homes and trailers to be used for human habitation, storage, or commercial use, whether defined as accessory or principal structures.

**BUTLER COUNTY PLANNING COMMISSION:** The designated planning agency of Butler County.

**CAMPING TRAILER:** A vehicular portable structure built on a chassis used as a temporary dwelling for travel, recreational and vacation uses.

**CLEAR SITE TRIANGLE:** Measured along the center lines of the intersecting streets, where L equals the distance along the center line of the primary through street, measured from its intersection with the center line of the secondary intersecting street, to an approaching vehicle on the primary street and on the secondary intersecting street, from a point at least 20 feet back from the edge of the pavement of the primary through-street, which is 3.5 feet above the surface of the pavement.

**COUNCIL:** The Council of Zelenople Borough, Butler County, Pennsylvania.

**DEEMED APPROVAL:** An approval automatically given where Council fails to meet specified timelines, absent a waiver from the applicant, as stated herein.

**DRIVEWAY:** A private drive providing access between a public or private street or access drive and the parking area for a single residential dwelling unit

**DUPLEX:** A use where two dwelling units are contained in and constitute the sole principle uses of one building and which are arranged such that the uses possess separate exterior entrances and where the stories occupied are arranged adjacent to and not above or below the other dwelling unit.

**ENVIRONMENTALLY SENSITIVE AREAS:** Areas of steep slopes, wetlands, and floodplains.

**FARM BUILDING:** Any structure which houses or is used in connection with and as an accessory to an agricultural operation and where no access to the general public is permitted in connection with a retail or service-related business.

**FLAG LOT:** Any lot approved pursuant to the standards of the Zoning Ordinance, the sole access of which is provided by a strip of land under the same fee simple ownership as the remainder of the lot, where the strip of land accessed provides less than the required street frontage in the district in which the lot is situated.

**GEOTECHNICAL REPORT:** A report prepared by a qualified engineer demonstrating the stability of soils, mining overburden, slopes, and other applicable areas, and the minimum measures necessary to demonstrate long term stability and integrity of proposed buildings or paved areas constructed thereon.

**JURISDICTIONAL WETLANDS:** Any area defined as a wetland by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

**LAND DEVELOPMENT:** The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving a group of two (2) or more residential or non-residential buildings, whether proposed initially or cumulatively; a single non-residential building on a lot or lots regardless of the number of occupants or tenure, or the division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

**LOT(S) OF RECORD:** A lot separately designated as a lot, tract, parcel or otherwise on a plat of subdivision duly recorded pursuant to statute or referred to in a deed or described by metes and bounds in a deed recorded in the office of the Recorder of Deeds of Butler County.

**MAJOR LAND DEVELOPMENT:** Any land development which proposes the improvement of a lot comprised of 1,500 or more square feet of lot coverage by building or structure, 1,500 or more square of paving, or a combination of lot coverage by building or structure and paving that equals or exceeds 1,500 square feet, excepting administrative and revised land developments.

**MAJOR PLANS:** Major Land Developments and Major Subdivisions as defined herein.

**MAJOR SUBDIVISIONS:** Any proposed subdivision bearing more than five lots or that which proposes the construction of a street intended to provide primary access to any one of said lots, excepting administrative subdivisions.

**MATERIAL CHANGE:** A proposed movement of lot line location where:

- A. The areas of any respective lot change by more than 10%; or
- B. The movement results in or maintains a nonconformity or violation of the Zoning Ordinance, namely in terms of setbacks and lot area.

**MINOR LAND DEVELOPMENT:** Any land development which proposes the improvement of a lot comprised of less than 1,500 square feet of lot coverage by building or structure, or less than 1,500 square feet of paving, or a combination of lot coverage by building or structure and paving which totals less than 1,500 square feet, excepting administrative and revised land developments.

**MINOR PLAN:** Minor Land Developments and Minor Subdivisions as defined herein.

**MINOR SUBDIVISION:** Any proposed subdivision bearing less than or five lots which does not propose the construction of a street intended to provide primary access to any one of said lots, excepting administrative subdivisions.

**MOBILE HOME:** A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation; and for the purposes of this ordinance, shall include a camping trailer.

**MOBILEHOME LOT:** A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

**MOBILE HOME PARK:** A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

**MPC:** The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as reenacted and amended by Act 170 of 1988, and as subsequently amended, 53 P.S. 10101 et seq.

**MULTI-FAMILY:** Any arrangement of attached dwelling units, excepting duplexes.

**OFFICIAL MAP:** A map adopted by Council, pursuant to Part IV of the MPC.

**PARKING LOT:** Any area utilized for the storage or parking of vehicles, on a short or long term basis.

**PLANTINGS, LOW LEVEL:** Plantings consisting of shrubs and any other plant species that is greater than two feet in height at planting and less than six feet in height at planting. All measurements and plant quality shall be consistent with the American Standards for Nursery Stock, published by the American Association of Nurserymen, Inc., Washington, D.C.

**PRINCIPAL STRUCTURE:** A building or structure housing the primary uses integral to an establishment or establishments on a property or planned group of non-residential uses.

**PRIVATE IMPROVEMENTS:** Any improvements required by this chapter and intended to be privately held and maintained, wherein no dedication to the Borough is anticipated, including but not limited to landscaping, parking lots, access drives, lighting, and private streets.

**PROFESSIONAL CONSULTANTS:** Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

**PROPRIETARY INTEREST:** The holding of fee simple title via deed to a property, short certificate, or of any contract, whether subject to any condition or not, or a certificate of title or other legal document whereby a person shall have the legal or equitable rights of the landowner in all matters relating to an application filed under this chapter, where title or equitable title is held in the entirety or where joint tenants or tenants in common convey such title.

**PUBLIC IMPROVEMENTS:** Those improvements, as required by this chapter, which are intended to be dedicated to, owned, and maintained by the Borough.

**QUALIFIED PROFESSIONAL FORESTER:** A person who has a B.S. degree from a four-year school of forestry accredited by the Society of American Foresters and a member in good standing of the American Forestry Association.

**REVISED LAND DEVELOPMENT:** Land Development applications submitted less than one calendar year after the date on which the initial occupancy certificate was issued by the Borough where said occupancy directly followed Council approval of a land development on the respective lot or lots where:

- A. Additions that are 1,000 square feet or less than or equal to 10% of the principal structure shown on the most recent site plan approved by the Council, whichever is less. Where no such plan has been approved, said addition shall be limited to one administrative approval; or
- B. Accessory buildings not expressly exempt from site plan or land development requirements that are equal to or less than 10% of the principal structure, not excepting instances where additional accessory buildings were constructed or exist that were not approved by Council through a standard approval process; or
- C. Expansion of parking that is 10% or less than the parking, inclusive of the surface area covered by all access drives and pavement, approved through the last site plan approved by Council where no change is proposed in terms of site access and circulation. Where no site plan was previously approved, expansion of parking as an administrative approval is limited to one such approval; or
- D. Revisions to the landscaping or lighting plan approved by Council.

**SITE:** The area comprised of all existing parcels subject to a proposed subdivision, the phase as shown on an approved preliminary plan within five years of said approval, or the area to be disturbed as part of a proposed land development.

**SKETCH PLAN:** The plan submitted for purposes of an Advisory review, in a manner as outlined in this ordinance.

**STEEP SLOPES:** Areas of existing topography where, in over a one-hundred-foot horizontal distance, or where the difference in elevation is over

20 feet, the slope equals or exceeds 25% from the top to bottom of the break in grade.

**STREET:** A strip of land, including the entire right-of-way, publicly or privately owned, serving primarily as a means of vehicular travel, encompassing the following types:

- A. **ARTERIAL:** A public street intended to carry a large volume of local and through traffic to or from collector streets and expressways with an ADT greater than 3,000.
- B. **COLLECTOR:** A street that collects and distributes traffic between local access and arterial streets. Such streets provide intra-regional connections between residential areas and shopping areas, employment centers and other local traffic generators.
  - (1.) **RESIDENTIAL:** 1,000 to 3,000 ADT.
  - (2.) **NON-RESIDENTIAL:** 800 to 3,000 ADT.
- C. **MINOR COLLECTOR:** A street that provides direct access to lots and conveys traffic from local to collector streets.
  - (1.) **RESIDENTIAL:** 500 to 1,000 ADT.
  - (2.) **NON-RESIDENTIAL:** 0 to 800 ADT.
- D. **CUL-DE-SAC:** A street with a single means of ingress and egress and a turnaround.
- E. **LOCAL:** A street that provides access to abutting property and connections to collector streets with an ADT up to 500.
- F. **MARGINAL ACCESS STREET:** A service street that runs parallel to a higher-order street and provides access to abutting properties and separation from through traffic.

**STRUCTURE:** Anything constructed or erected on the ground or attached to the ground, including buildings, parking, whether defined as accessory or principal structures.

**SUBDIVISION:** The consolidation of two (2) or more lots or the division or re-subdivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the "subdivision" by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**TREES, LARGE:** Trees whose height will ultimately exceed 40 feet, shall have a minimum caliper of 2.5 inches diameter measured at 4.5 feet above natural grade at the time of planting.

**TREES, MEDIUM:** Trees with an ultimate height of 25 to 40 feet, which have a minimum caliper of 2.0 inches diameter measured at 4.5 feet above natural grade at the time of planting.

**TREES, SMALL:** Small trees, being those trees whose ultimate height will not exceed 25 feet, which have a minimum caliper of 1.5 inches diameter measured at 4.5 feet above natural grade at the time of planting.

**WOODLANDS:** An area of trees whose total combined canopy covers one acre or more, in which at least 70% of the canopy trees have a DBH of 2.5 inches or more.

**ZONING ORDINANCE:** The Zoning Ordinance as adopted by Council and amended from time to time.

**PART III, EXEMPTIONS AND EXCLUSIONS.**

**300. Land Development Exemptions.**

The following Land Developments are expressly exempted from compliance with this Ordinance.

- A. The conversion of an existing single-family dwelling or two-family dwelling into not more than three residential dwelling units, unless such units are intended to be a condominium.
- B. The addition of any accessory structure on a lot or lots subordinate to any existing residential principal building.
- C. Farm Buildings.
- D. Any change of use of an existing structure that results in a maintenance or reduction of existing density, required parking or traffic generation and which does not require a conditional use.
- E. The addition of a commercial or non-residential accessory structure less than or equal to 1,000 square feet wherein such structure exceeding 1,000 square feet shall be considered a principal structure by this chapter.
- F. Those land developments, which qualify as administrative approvals, shall be subject to the express requirements of such approvals, and accordingly exempted from approval requirements otherwise applicable or imposed by this ordinance.

**301. Subdivisions.**

- A. While no subdivision, as defined herein, is expressly exempted from the provisions of this Ordinance, those subdivisions which qualify as administrative approvals are accordingly exempted from approval requirements otherwise applicable or imposed by this ordinance.

**PART IV, ADMINISTRATIVE, REVISED AND MINOR PLAN APPROVAL PROCESSES.**

**400. Administrative Subdivisions and Administrative Land Developments.**

- A. Application Requirements. The applicant shall submit the following:
- (1). All items as specified and required by Part VI of this ordinance.
  - (2). Revised Amenities or Performance Financial Security, where revisions to previous approvals warrant an increase in said Financial Security, as determined by the Borough Engineer.
  - (3). All plans and plats otherwise required shall be limited to those specific plans and locations proposed for revision, where amendments to previously approved final land developments and subdivisions are proposed.
- B. Application Acceptance, Review, and Procedural Actions.
- (1). The Plan Administrator shall review the submitted application within ten business or working days of submittal. Where an application is found to be deficient by virtue of the submission of an incomplete application or where the application proposes activities which violate any other Borough ordinance, the Plan Administrator shall return all submitted materials to the applicant, citing the basis for said deficiencies.
  - (2). The Plan Administrator shall, within five business or working days of submission, forward said plans along with a recommendation to the Chairman of the Planning Commission and Council President. In the event that either party presents a reasonable written disagreement, within five days of receipt, with Plan Administrator's recommendation, the plan shall be reviewed at the next regular meeting of the Planning Commission to be processed in the same manner as a minor plan.
  - (3). The Plan Administrator shall submit a copy of the application to the Butler County Planning Commission for review and shall not act upon the plan until comments are received or 30 days have lapsed since the submittal of the plan to the county planning agency.
  - (4). In the event of a denial by the Plan Administrator, the Plan Administrator shall within 15 days of the denial, present a written letter to the applicant informing him of said denial along with express deficiencies found and related ordinance citations, within 90 days of application submittal, unless waived by the applicant in writing. Failure to act within the timeline specified shall result in a deemed approval.
  - (5). In the event of approval or an approval with conditions, the Plan Administrator shall direct the signatures of the Municipal Engineer, Chairman of the Planning Commission, and Council President, in

addition to his own signature to the plat. The date on which all signatures have been received shall constitute the approval date. Said approval shall occur within 90 days of application submittal, unless waived by the applicant in writing. The Plan Administrator shall provide the applicant written notice of the approval within 15 days of said approval and may attach reasonable conditions as cited in his previous correspondence to the Chair and President.

- (6). Administrative Approvals are subject to all post approval requirements as cited in Part VIII.
- (7). Any alteration to a recorded developers agreement or subdivision plat shall be recorded at the Butler County Recorder of Deeds within 90 days of approval or shall lose its effect of approval.

**401. Revised Land Development Plans.**

- A. Application Requirements. The applicant shall submit the following:
  - (1). All items as specified and required by Part VI of this ordinance.
  - (2). Revised Amenities or Performance Bonds, where revisions to previous approvals warrant an increase in said bonds, as determined by the Borough Engineer.
  - (3). All plans and plats otherwise required shall be limited to those specific plans and locations proposed for revision, where amendments to previously approved final land developments and are proposed.
- B. Application Acceptance, Review, and Procedural Actions.
  - (1). The Plan Administrator shall review the submitted application within ten business or working days of submittal. Where an application is found to be deficient by virtue of the submission of an incomplete application or where the application proposes activities which violate any other Borough ordinance, the Plan Administrator shall return all submitted materials to the applicant, citing the basis for said deficiencies.
  - (2). The Plan Administrator shall, within five business or working days of submission, forward said plans along with a recommendation to the Chairman of the Planning Commission. In the event that the Chairman provides a reasonable written disagreement, within five days of receipt, with Plan Administrator's recommendation, the plan shall be reviewed at the next regular meeting of the Planning Commission to be processed in the same manner as a minor plan. Otherwise the plan shall be reviewed and approved by Council.
  - (3). The Plan Administrator shall submit copies of the application to the Butler County Planning Commission for review and shall not act upon the plan until comments are received or 30 days have lapsed since the submittal of the plan to the county planning agency.

- (4). In the event of a denial by Council, the Plan Administrator shall within 15 days of the denial, present a written letter to the applicant informing him of said denial along with express deficiencies found and related ordinance citations, within 90 days of application submittal, unless waived by the applicant in writing. Failure to act within the timeline specified shall result in a deemed approval.
- (5). In the event of approval by Council, the Plan Administrator shall direct the signatures of the Municipal Engineer, Chairman of the Planning Commission, and Council President, in addition to his own signature to the plat. The date on which all signatures have been received shall constitute the approval date. Said approval shall occur within 90 days of application submittal, unless waived by the applicant in writing. In approving a plan, Council may attach reasonable conditions. The Plan Administrator shall provide the applicant written notice of the approval within 15 days of said approval and may attach reasonable conditions as cited in his previous correspondence to the Chair and President.
- (6). Revised Land Development Plan approvals are subject to all post approval requirements as cited in Part VIII.
- (7). Any alteration to a recorded developers agreement shall be recorded at the Butler County Recorder of Deeds within 90 days of approval or shall lose its effect of approval.

**402. Minor Subdivisions and Minor Land Developments.**

- A. Application Requirements. The applicant shall submit the following:
  - (1). All items as specified and required by Part VI of this ordinance.
  - (2). The Municipal Engineer, Plan Administrator, or Planning Commission may require the submittal of additional items cited in Section 606 for Major Subdivision and Land Development Plans, where said item or items are required to determine conformity with the standards of this and other Borough ordinances.
- B. Application Acceptance, Review, and Procedural Actions
  - (1). The Plan Administrator shall review the submitted application within ten business or working days of submittal. Where an application is found to be deficient by virtue of the submission of an incomplete application or where the application proposes activities which violate any other Borough ordinance, the Plan Administrator shall return all submitted materials to the applicant, citing the basis for said deficiencies. Otherwise, the Plan Administrator shall inform the applicant of application acceptance within 10 days of submittal. Said notification shall constitute of official date of filing. The Plan Administrator shall forward the plan to the Butler County Planning Commission for review and comment.

- (2). The Plan Administrator shall present the application to the Planning Commission at their next regular meeting held within 15 days of application filing. The Planning Commission shall recommend denial of the plan, approval, or approval with conditions to Council.
- (3). Council shall not act on the plan until a recommendation from the Planning Commission is received or until 60 days lapse from the first regular meeting of the Commission at which the plan was initially reviewed.
- (4). Council shall not act on the plan until recommendations are received from the Butler County Planning Commission or until 30 days have lapsed since the plan's submittal to the County.
- (5). Council, within 90 days of the official date of filing or within 120 days of the date on which the application was submitted, in the event that a regular meeting of the Planning Commission does not occur within 30 days of submittal, shall act to deny, approve, or approve with conditions. Council may require the execution of a developer's agreement in accordance with Section 803 of this ordinance where Council finds that such an agreement is warranted in relation to other conditions placed and the scale or impact of the improvements proposed. Failure to act within the stated timelines shall result in a deemed approval.
- (6). Minor Plan approvals are subject to all post approval requirements as cited in Part VIII.

**403. Changes in Ordinances.**

- A. The applications cited within this Part shall be afforded the protections granted by Section 508 of the Municipalities Planning Code and in Section 800 of this ordinance, wherein approval of the above applications constitutes both a preliminary and final approval. Where an applicant fails to record an agreement or plan as required by this ordinance and the effect of final approval is lost accordingly, the effect of preliminary approval, granted on the approval date shall remain.

**PART V, MAJOR PLANS, PRELIMINARY AND FINAL PLAN APPROVAL PROCESS**

**500. Scope**

The following requirements relate to all major subdivision and land development plans.

**501. Approval stages**

All major plans shall require preliminary and final approval, wherein preliminary approval shall precede the acceptance or approval of a final plan application involving land related thereto.

**502. Simultaneous Preliminary and Final Approval.**

An applicant may request simultaneous preliminary and final plan approval where no phases are denoted on a plan, and where all required application materials are submitted for each. The application shall be treated as one approval, wherein denial, approval, or approval with conditions shall apply to the preliminary and final approval.

**503. Sketch Plans.**

- A. The applicant for any major plan approval may request one advisory meeting with the Planning Commission or Plan Administrator. The applicant shall provide all items required by Part VI of this ordinance.
- B. No fees shall be assessed to the applicant for consideration of the sketch plan.
- C. Where a meeting with the Planning Commission is requested, and upon submission of all required items, the Plan Administrator shall notify the Planning Commission Chair, who shall make a good faith effort to place the item for consideration on the next available regular Planning Commission Agenda.
- D. The submission of an advisory meeting request shall not constitute submission of an application for subdivision or land development. Additionally, written or verbal communication provided by the Plan Administrator or Planning Commission shall be considered advisory in nature and subject to the evaluation of preliminary and final approval reviews. Therefore, no deemed approval shall occur in connection with the review or discussion of an advisory meeting request.

**504. Application Review Process and Requirements.**

- A. All items as specified and required by Part VI of this ordinance.
- B. For preliminary plans the Municipal Engineer, Plan Administrator, or Planning Commission may require the submittal of additional items cited in 607 for Final Plans, where said item or items are required to determine conformity with the standards of this and other Borough ordinances.

C. Application Acceptance, Review, and Procedural Actions

- (1). The Plan Administrator shall review the submitted application within ten business or working days of submittal. Where an application is found to be deficient by virtue of the submission of an incomplete application or where the application proposes activities which violate any other Borough ordinance, the Plan Administrator shall return all submitted materials to the applicant, citing the basis for said deficiencies. Otherwise, the Plan Administrator shall inform the applicant of application acceptance within 10 days of submittal. Said notification shall constitute of official date of filing. The Plan Administrator shall forward the plan to the Butler County Planning Commission for review and comment.
- (2). The Plan Administrator shall present the application to the Planning Commission at their next regular meeting held within 15 days of application filing. The Planning Commission shall recommend denial of the plan, approval, or approval with conditions to Council.
- (3). Council shall not act on the plan until a recommendation from the Planning Commission is received or until 60 days lapse from the first regular meeting of the Commission at which the plan was initially reviewed.
- (4). Council shall not act on the plan until recommendations are received from the Butler County Planning Commission or until 30 days have lapsed since the plan's submittal to the County.
- (5). Council, within 90 days of the official date of filing or within 120 days of the date on which the application was submitted, in the event that a regular meeting of the Planning Commission does not occur within 30 days of submittal, shall act to deny, approve, or approve with conditions. Failure to act within the stated timelines, unless waived in writing by the applicant, shall result in a deemed approval.
- (6). Where approval or approval with conditions takes place, Council shall acknowledge and affirm the required amount of performance bonding associated therewith.
- (7). Major Plan approvals are subject to all post approval requirements as cited in Part VIII.

## PART VI, APPLICATION SUBMISSION REQUIREMENTS

### 600. Part Requirements.

The requirements of this Part shall represent the minimum required for the acceptance and review of the respective applications cited herein.

### 601. Licensed Surveyor Requirement.

All surveys, plats, and plans shall be prepared by a professional surveyor licensed in Pennsylvania or by a landscape architect in cases authorized by Section 2 of the act of January 24, 1966 (1965 P.L.1527, No.535), known as the "Landscape Architects' Registration Law,"

### 602. Standard Submission Items.

The following items shall be required for all subdivision and land development applications, wherein specific requirements shall be in addition to those required in this section.

- A. Completed and signed application forms as provided by the Borough. All owners shall sign the application forms.
- B. Agent authorization form, where the applicant's engineer or surveyor plans to act as the representative of the applicant(s) at public meetings.
- C. Proof of Proprietary Interest.
- D. Deeds of the property or properties party to the application.
- E. Fees and escrow funds as specified and required by this ordinance and municipal resolutions.
- F. A list of all encumbrances and, if appearing on record, the book and page numbers.
- G. A copy of all restrictions, covenants and limitations, if any, under which lots are to be sold.
- H. Copies of applications for all State and Federal permits required.
- I. Each sheet of any plan set shall be numbered and shall show its relationship to the total number of sheets. Where there are four or more sheets, a key map on a scale sufficient to show their relationship, shall be furnished on the first sheet of the plan. Where separate sets of construction drawings are provided, a key shall reference the respective page numbers.
- J. Plan requirements. An existing conditions survey showing:
  - (1). The deed book volume and page of properties within the site.
  - (2). The names, county tax identification numbers, and deed book volume and page of surrounding property owners.

- (3). The Zoning of parcels included and surrounding parcels.
  - (4). The Zoning District or Districts on the site and Zoning standards including minimum lot size, lot coverage, setbacks.
  - (5). Dimensions shall be set in feet and decimal parts thereof, and bearings in degrees, minutes and seconds.
  - (6). The plan shall include all existing buildings, structures, impervious surface areas, and sewage and public water utility easements on and within 50 feet of the property.
  - (7). Existing or proposed private sources of drinking water and septic systems on or within 50 feet of the site, or sites at which percolation tests were conducted.
  - (8). All existing and proposed easements traversing the site, along with recording information or instruments for recording, respectively.
  - (9). A location map inset showing streets and municipal boundary lines near the site, at a minimum scale of 1:1,000.
- K. A record plan or plat shall be required for all subdivisions, and shall, at a minimum, include the following:
- (1). The plan shall be prepared at a scale of 1-inch equals fifty feet, or at an alternative scale approved by the Borough Engineer, on uniform sheets of paper.
  - (2). Dimensions shall be set in feet and decimal parts thereof, and bearings in degrees, minutes and seconds, excepting preliminary plans.
  - (3). Plans shall be drafted on 24 by 36 inch sheets.
  - (4). Each sheet shall be numbered and shall show its relationship to the total number of sheets. Where there are four or more sheets, a key map on a scale sufficient to show their relationship, shall be furnished on the first sheet of the plat.
  - (5). Any movement of lot lines shall show the original lot lines labeled as such and in a lighter line type. The combination of lots of record shall be indicated by the inclusion of a land hook.
  - (6). A title block on each sheet shall bear the name of the subdivision, the present zoning, acreage, deed book volume and page, names of the owner, and name and address of the surveyor.
  - (7). Provisions for the following impressed seals:
    - (a.) The engineer or surveyor who prepared the plan.
    - (b.) The corporate seal, if the subdivider is a corporation.

- (c.) The impressed seal of a notary public or other qualified officer acknowledging the owner's statement of adoption and dedication.
  - (d.) The Zelienople Borough seal.
  - (e.) The Butler County Planning Commission seal and signature block.
- (8). For final subdivisions, whether major or minor, the following certifications with the sample language cited in Section 504 of the Butler County Subdivision and Land Development Ordinance or as otherwise specified by subsequent amendments or the Butler County Recorder of Deeds.
- (a.) Owner's Adoption and Certification, including a statement of indemnification for the Borough of Zelienople as the approving authority.
  - (b.) Acknowledgement of the Notary Public.
  - (c.) Certification of Title and Concurrence of Mortgagee, where applicable.
  - (d.) Surveyor's Certification.
  - (e.) The following Municipal Declaration to be signed by the Borough Secretary and Council President: "The Council, of the Borough of Zelienople gives notice that, in approving this plan for recording, the Borough of Zelienople assumes no obligation to accept the dedication of any streets, land or public facilities and has no obligation to improve or maintain such streets, land or facilities."
  - (f.) Municipal Planning Commission Approval Signature Block
  - (g.) Council Approval Signature Block
- (9). All existing and proposed easements traversing the site, along with recording information or instruments for recording, respectively.
- (10). Where access to a State road is necessary, the plat shall include a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," before driveway access to a State highway is permitted.
- (11). The Municipal Engineer may require additional details relating to the placement of homes and driveways to be placed on submitted existing conditions, proposed conditions, and/or record plats provided for in this part, where such details are required to ensure future compliance with the standards of this ordinance.

(12). Any record plat submitted as a preliminary plan shall be clearly labeled as such.

- L. All plan sheets produced in a legal or 11 by 17 inch size of paper, or in digital form acceptable to the Borough to facilitate reproduction of the plans.
- M. Subdivision plans shall be submitted in a digital format, as required by the Borough, in a manner formatted to State Plane, 1983 Datum. Land Development Plans shall be submitted in a digital format as prescribed by the Borough in a manner capable of incorporation into the Borough's geographical information system in a manner sufficient to include building and parking footprints.

**603. Administrative Subdivisions and Administrative Land Developments.**

- A. Five copies of all plan sheets and three copies of all application forms shall be submitted.
- B. The application shall include references, recording information, or permit numbers of associated subdivisions, land development approvals and subsequent occupancy permits granted.
- C. Plan sheets submitted shall differentiate, by line type or character shading, existing versus proposed amenities, including but not limited to landscaping, lighting, and parking.

**604. Revised Land Developments.**

- A. Twelve copies of all plan sheets and three copies of all application forms shall be submitted.
- B. The application shall include references, recording information, or permit numbers of associated subdivisions, land development approvals and subsequent occupancy permits granted.
- C. Plan sheets submitted shall differentiate, by line type or character shading, existing, approved but uninstalled, and proposed amenities, including but not limited to landscaping, lighting, and parking.

**605. Minor Plans.**

- A. Fourteen copies of all plan sheets and three copies of all application forms shall be submitted.
- B. A reproduction of the soils map for the site, from the Butler County Soils Survey.
- C. A reproduction or inset of the site perimeter overlain with the applicable areas of the USGS topography quad map at a minimum scale of one inch equals 520 feet or 1:6,250.
- D. Access easements where secondary access or shared driveways are proposed.

**606. Preliminary Subdivisions and Land Developments.**

- A. Applicant shall submit fourteen copies of the following plans noted and three copies of reports.
- B. An existing conditions plan pursuant to 602(J) shall be submitted and shall include the following additional elements:
  - (1). Topography shown on five-foot contours.
  - (2). Areas of steep slope shall be delineated, with areas of over 40 percent slope separately delineated.
  - (3). Floodplains and floodways as denoted by the Federal Emergency Management Agency's panel mapping.
  - (4). Jurisdictional Wetlands.
  - (5). Woodlands, along with a general representation of the species, calipers, and types of trees therein.
- C. A proposed conditions plan or record plat pursuant to 602(K) shall be submitted, and shall include all the elements shown on the existing conditions plan in a lighter shade or line type along with following proposed elements:
  - (1). Proposed lot and right-of-way lines drawn to scale.
  - (2). Proposed street cartways.
  - (3). Proposed street names.
  - (4). Site distance information for all proposed intersections.
  - (5). Proposed utility easements and storm water facilities.
- D. Preliminary grading and storm water plans, showing sufficient demonstration of the plan's feasibility in regards to local ordinances and any further information required by the Borough Engineer necessary to demonstrate such.
- E. Traffic impact study when required by this ordinance.
- F. Subsurface information, namely the depths of underlying mines as denoted on the Pennsylvania DEP Bureau of Mining and Reclamation mapping.
- G. In residential subdivisions or land developments, required land area and parcels shown for open space or an alternative written proposal including fee-in-lieu of such land.
- H. Geotechnical report when required by this ordinance.
- I. Lot sizes.
- J. Land Developments shall include the following information:

- (1). Number of parking spaces and related table demonstrating compliance with zoning standards.
  - (2). Impervious surface coverage.
  - (3). Building footprints and anticipated square footages.
  - (4). Density of residential units, where applicable.
  - (5). General parking lot and access drive design.
- K. Delineation of all phases showing structures or lots, along with parking, proposed in each phase, along with a timeline for final approval.

**607. Final Subdivisions and Land Developments.**

- A. A proposed timeline of public improvement construction shall be submitted.
- B. Proposed covenants as they apply to this and other Borough Ordinances.
- C. Estimates of all public improvements or private amenities shall be submitted prior to consideration by Council, giving sufficient time for the Borough Engineer to review the estimates and make a formal recommendation as to the amount of financial security to be posted.
- D. A wetlands determination report for all sites which have hydric soils or soils with hydric inclusions and, if applicable, a wetlands delineation report for all jurisdictional wetlands on the site and the design techniques proposed to accommodate them.
- E. A detailed grading and erosion and sedimentation plan.
- F. A detailed storm water plan.
- G. Detailed street, access drive, and parking construction drawings showing typical street cross sections, intersection details, and street profiles. Street profiles shall include complete vertical curve information.
- H. The Borough Engineer may request additional information prior to final approval when such information or details are required to demonstrate performance standards commensurate with this and other applicable Borough Ordinances.
- I. The type and location of landscaping along with a table demonstrating compliance with this ordinance and the zoning ordinance.
- J. Parking along with typical parking spaces, angles, and aisle widths. Arrows should be included to show directional flow of traffic.
- K. A detailed or final geotechnical report with recommendations, where applicable.
- L. The percent of steep slopes areas altered by proposed construction.

- M. Parcels designated as open space required for land dedication, along with proposed ownership shall be shown on the record plat. All proposed recreational facilities shall include construction, architectural, and cost estimates where construction of facilities are proposed in lieu of land or fees.
- N. Land Developments shall include estimates of uses sufficient to determine parking along with architectural elevations of structures and proposed square footages.

**608. Sketch Plans.**

- A. Sketch plans shall include the following information, at a minimum.
- B. USGS map of the proposed site overlaid with proposed access points.
- C. A general description of uses proposed along with a scaled drawing showing preliminary arrangement of lots or structures.
- D. A description of known environmental limitations including slide prone soils, steep slopes, wetlands, floodplains, and undermining.
- E. Applications forms as required by the Borough.

## PART VII, FEES

### 700. Filing Fee.

- A. The Borough may assess an application filing fee sufficient to cover administrative costs including clerical labor, advertising, storage, hardcopy and digital communication, and other similar costs necessitated by any certain class of application, commensurate with its scale. Such fees shall be established by resolution or ordinance of Council.

### 609. Application Review Fees and Escrow Account.

- B. An application review escrow deposit, in an amount that may be established by resolution of Council shall be payable at the time of submission of the application to guarantee payment of the estimated application review fees required by this Part. The actual amount of the review fees in excess of the escrow deposit shall be payable within 45 days of billing by the Borough as an interim itemized bill. Any monies remaining in the escrow account after all review fees have been paid shall be returned to the applicant.
- C. Application review fees shall include reasonable and necessary charges by the Borough's professional consultants, Borough Engineer or by the Borough Solicitor, to the extent permitted by law, for review and report on the application to the Borough. Such review fees shall be based upon a schedule established from time to time by resolution or ordinance of Council. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Borough Engineer or other professional consultants for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the Borough Engineer or other professional consultants to the Borough when fees are not reimbursed or otherwise imposed on applicants.
- D. The Borough shall submit a final itemized bill or account statement no later than fifteen days following the denial, approval, or approval with conditions of a related plan. Any statement submitted beyond that date shall be considered a supplemental invoice.
- E. In the event the applicant disputes the amount of any such review fees, the applicant shall, within 45 days of the billing date, notify the Plan Administrator in writing that such fees are disputed, in which case the Borough shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees. Otherwise, no plan shall be released for recording, related developer's agreement executed, or permits for any type of construction issued until payment of the bill occurs.
- F. In the event that the Borough and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the

applicant and the Borough shall follow the procedure for resolution of disputes as set forth below in Section 702 of this chapter, provided that the professionals resolving such dispute shall be of the same profession or discipline as the consultants whose fees are being disputed.

**610. Inspection Fees.**

- A. The Borough shall require the reimbursement of expenses incurred in connection with the inspection of public and private improvements, where the inspections represent that necessary to ensure and verify the proper construction of said improvements in connection with Borough standards.
- B. Council shall submit to the applicant an itemized bill showing the work performed in connection with the inspection of improvements performed, identifying the person performing the services and the time and date spent for each task. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, no later than 30 days after the date of transmittal of a bill for inspection services, notify the Borough and the Borough Engineer that such inspection expenses are disputed as unreasonable or unnecessary and shall explain the basis of their objections to the fees charged, in which case the Borough shall not delay or disapprove a request for release of financial security, a subdivision or land development application or any approval or permit related to development due to the applicant's dispute of inspection expenses. Failure of the applicant to dispute a bill within 30 days shall be a waiver of the applicant's right to arbitration of that bill under this section.
- C. Subsequent to the final release of financial security for completion of improvements for a subdivision or land development, or any phase thereof, the Borough Engineer shall submit to Council a bill for inspection services, specifically designated as a final bill. The final bill shall include inspection fees incurred through the release of financial security.
- D. If, the Borough Engineer and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant shall have the right, within 45 days of the transmittal of the final bill or supplement to the final bill to the applicant, to request the appointment of another Borough Engineer to serve as an arbitrator. The applicant and Borough Engineer whose fees are being challenged shall by mutual agreement, appoint another engineer to review any bills the applicant has disputed and which remain unresolved and make a determination as to the amount thereof which is reasonable and necessary. The arbitrator shall be of the same profession as the Borough Engineer whose fees are being challenged.
- E. The arbitrator so appointed shall hear such evidence and review such documentation as the arbitrator in his or her sole opinion deems

necessary and shall render a decision no later than 50 days after the date of appointment. Based on the decision of the arbitrator, the applicant or the Borough Engineer whose fees were challenged shall be required to pay any amounts necessary to implement the decision within 60 days. In the event the Borough has paid the Borough Engineer an amount in excess of the amount determined to be reasonable and necessary, the Borough Engineer shall within 60 days reimburse the excess payment.

- F. In the event that the Borough's Borough Engineer and applicant cannot agree upon the arbitrator to be appointed within 20 days of the request for appointment of an arbitrator, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the Borough is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such arbitrator, who, in that case, shall be neither the Borough's Borough Engineer nor any Borough Engineer who has been retained by, or performed services for, the Borough or the applicant within the preceding five years.
- G. The fee of the arbitrator shall be paid by the applicant if the review fee charged is sustained by the arbitrator, otherwise it shall be divided equally between the parties. If the disputed fees are found to be excessive by more than \$5,000, the arbitrator shall have the discretion to assess the arbitration fee in whole or in part against either the applicant or the Borough Engineer. Council and the consultant whose fees are the subject of the dispute shall be parties to the proceeding.

**PART VIII, POST APPROVAL PROCESSES AND REQUIREMENTS.**

**800. Effect of Preliminary Approval.**

- A. Five-year rule. When an application for approval of a plat, whether preliminary or final, has been approved or approved subject to conditions acceptable to the applicant, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. Where final approval is preceded by preliminary approval, the five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing chapters or plans as they stood at the time when the application for such approval was duly filed.
- B. Substantial completion rule. Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinances or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.
- C. Schedule of work. In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant or before the anniversary of the preliminary plat approval until final plat approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of Council, in its discretion.
- D. Failure to adhere to schedule. Failure of the landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinances enacted by the Borough subsequent to the date of the initial preliminary plan submission.

**611. Approval with Conditions.**

- A. Where a plan is given an approval with conditions, the applicant shall provide a written acceptance of said conditions within 30 days of the date on which the Borough provided required notice of approval to the applicant. Failure of the applicant to provide such acceptance within the

aforesaid timeline shall result in an automatic rescinding of the plan approval.

**612. Developer's Agreement**

All major plans, shall upon final approval, require the execution of a developer's agreement, prepared by or under the direction of the Borough Solicitor, and at a minimum containing the following information. The plans shall be recorded at the Butler County Recorder of Deeds at the expense of the developer before any permits are issued on the site:

- A. All recording information relating to the subject site.
- B. Inclusion of approved land development plans as an attachment, where applicable.
- C. All conditions applied by Council.
- D. Timeline of development related and reference to the financial security posted, as remedy to the developer's failure to adhere to said timeline and improvements.
- E. Assignment of the agreement's obligations to the developer's heirs and assigns.
- F. Seal by a notary public, the Borough, and the developer's corporation, where one exists.
- G. Reference to the certificate of completion required by this ordinance.
- H. Requirement that covenants shall be recorded prior to the issuance of building permits on the site.
- I. Where a record plat is not associated with the plan, a copy of the proposed conditions plan shall be attached to the developer's agreement.
- J. The agreement shall be produced in a format record-able at the Butler County Recorder of Deeds.

**613. Financial Security or Performance Bonding Requirements and Periodic Releases of Bonding.**

- A. No plat or developer's agreement shall be signed or released, nor shall any permit be issued for related subdivisions or land developments unless all public and private improvements are installed or until financial security is provided as follows.
- B. The developer may post a performance bond with a Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending or other forms of financial security acceptable to the Borough. Such other forms shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security,

provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

- C. The performance bond shall guarantee construction prior to a date also specified in the developer's agreement and through the plan approval. The bond shall renew or guarantee the availability of funds to the Borough at least until 30 days beyond said date.
- D. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Borough may adjust the amount of the financial security by comparing the actual cost of the improvements that have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Borough may require the developer to post additional security in order to assure that the financial security equals said 110%. The developer shall post any additional security 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 an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Borough, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Borough and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough and the applicant or developer.
- F. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.
- G. In the case where development is projected over a period of years, the Borough may authorize submission of final plats by section or stages of development 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.

- H. As the work of installing the required improvements proceeds, the party posting the financial security may request the Borough to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Borough, and the Borough shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the Borough that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the Borough shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the Borough fails to act within said 45-day period, the Borough shall be deemed to have approved the release of funds as requested. The Borough may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

**614. Release of Recordable Plat for Final Subdivisions.**

- A. The developer shall submit two recordable mylars to the Borough for the application of all signatures and seals required, in a form as approved by Council at final plan approval.
- B. Upon the completion of conditions specified in the approval, posting of required bonding or construction of improvements, and execution of the developer's agreement, the Borough may affix all signatures to a plat. In the case where a recordable plat is signed, the Borough shall require the deposit of an escrow to be released upon the delivery of a recorded mylar to the Borough. The escrow shall be determined by resolution or ordinance and shall be sufficient to cover the costs of obtaining a mylar copy of the recorded document.
- C. Upon the approval of a final plat, the developer shall within 90 days of such final approval or 90 days after the date of delivery of an approved plat signed by Council, following completion of conditions imposed for such approval, whichever is later, the developer shall record the plan at the Butler County Recorder of Deeds. Failure to do so shall rescind approval. The Plan Administrator shall, upon request of the applicant and filing of any application fee required by the Borough via resolution or ordinance, reinstate the signatures and final approval dates if said request is made within an additional 90 days following the aforesaid deadline.

**615. Release of Performance Bond.**

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Borough, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Borough Engineer. The Borough shall, within ten days after receipt of such notice, direct and authorize the Borough Engineer to inspect all of the aforesaid improvements. The Borough Engineer shall, thereupon, file a report, in writing, with the Borough, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Borough Engineer of the aforesaid authorization from Council; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Borough Engineer, said report shall contain a statement of reasons for such rejection.
- B. Council, based upon the Borough Engineer's report, shall take action to approve or reject, in whole in or in part, the aforesaid improvements and shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of Council's action with relation thereto.
- C. Failure of Council to act within the aforementioned timeline shall constitute a deemed approval of the improvements.
- D. The Borough shall require the posting of a maintenance bond for all public improvements, including recreational equipment, to be dedicated to the Borough. The bond shall equal 15% of the accepted cost of construction accepted by the Borough Engineer and Developer and approved by Council at final approval and shall be posted for a period of 18 months from the date of acceptance of said improvements. The bond or bonds shall be posted prior to the acceptance of any related public improvements.

**616. Release of Amenities Bonds.**

- A. Where private improvements, excepting streets and related storm water facilities, are approved, including but not limited to landscaping, private recreational facilities, the developer may separately post an amenities bond for the private improvements in the same manner and under the same criteria, requirements, and dispute resolution options afforded public improvements, outlined in Section 804.
- B. Release of Amenities Bonds. The developer shall follow all procedures outlined in Section 803.
- C. Council, through the adoption of this ordinance, authorizes the Borough Engineer to finally approve the release of said bonds. The Engineer shall provide a report in accordance with the timelines outlined in Section

804 except that where the report does not contain a final decision, said decision shall be mailed to the developer via certified or registered mail within 15 days of the mailing of said report.

**617. Rights of Developer.**

- A. Nothing in this Part, however, shall be construed to limit the developer's right to contest or question, by legal proceedings or otherwise, any determination Council or the Borough Engineer.

**618. Certificate of Completion.**

- A. All land developments shall require a certificate of completion prior to the issuance of occupancy permits for establishment or dwelling units therein.
- B. The developer shall submit a formal request, in writing, to the Borough Manager.
- C. The Manager shall direct the Plan Administrator and Borough Engineer to review the completeness of all improvements related thereto and the fulfillment of any outstanding conditions imposed through Council's conditional approval.
- D. Final acceptance of public improvements and private amenities shall occur prior to the issuance of a certificate of completion.
- E. The Manager, based upon the reports of the Plan Administrator and Borough Engineer, shall issue or deny the issuance of the Certificate of Completion within 20 days of the submitted request.

**619. As-Built Drawings.**

- A. Upon completion of the public and/or private improvements in a plan, as-built plans and profiles of the public and/or private improvements, as constructed, shall be filed with the Plan Administrator by the developer within ten (10) days of the mailing of a the formal remittance accepting the construction of public or private improvements. A sepia and print of each as-built drawing for public improvements shall be submitted. As-built plans and profiles shall be marked "as-built" and shall contain the final grade of all sanitary and storm sewers and appurtenances.
- B. Additionally, as-built plans shall be submitted in a digital format, as required by the Borough, in a manner formatted to State Plane, 1983 Datum.
- C. As-built drawings shall be submitted prior to the issuance of a Certificate of Completion or Council's acceptance, by ordinance, of public streets or recreational facilities.

**PART IX, DESIGN AND CONSTRUCTION STANDARDS.**

**900. Preliminary Plan Phasing**

- A. Twenty-five-percent requirement. Each section in any residential subdivision or land development, except for the last phase, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan. Provided that the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with the landowner's aforesaid schedule of submission of final plats for the various sections, then the protections afforded by substantially completing the improvements depicted upon the final plat within five years of the preliminary plat approval or the aforesaid schedule shall apply. For any section or sections beyond the initial section in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

**620. Lot , Block, and Building Location Design Standards**

- A. Lots shall be designed in a manner that accommodates driveway access from a street commensurate with the requirements of this ordinance without excessive grading accomplished by a driveway not exceeding ten percent (10%) of elevation with reasonable transition areas thereto from the street to the proposed building or structure.
- B. Lots shall be designed in a manner which permits a reasonable building area, determined by the setbacks and related zoning requirements of the district in which the lot lies, outside of existing steep slopes.
- C. No block shall be longer than 2,000 feet or less than 500 feet, except in unusual circumstances or where comparable levels of safety are assured. Where a loop street exists, the street or block length shall bear a minimum of 500 feet and a maximum of 4,000 feet, where the 2,000 foot maximum is measured from each intersection.
- D. Where a subdivision adjoins a major highway the greater dimension of the block shall front along such major highway to minimize the number of ingress or egress.
- E. Lots shall be so designed that access to said lots is made to the furthest extent possible, in consideration of street construction and design standards, through the natural or existing grades and topography.
- F. Where not prohibited by this or any other laws or ordinances, land located in any designated flood plain district may be platted for development with the provision that the developer construct all buildings and structures to preclude flood damage in accordance with this and any other laws and ordinances regulating such development.

- G. Proposed lots shall bear a reasonable building area in consideration of disturbance limits placed upon areas of steep slopes, wetlands, floodplains, and watercourses.
- H. No structure, street, access drive, or parking facility shall be constructed in a manner which disturbs areas of steep slopes, wetlands, floodplains, and watercourses, other than in a manner expressly permitted by this ordinance or the zoning ordinance.
- I. Through lots, namely in residential areas, shall be discouraged.
- J. Flag Lots. Flag lots are permitted under the following circumstances:
  - (1). One flag lot is permitted per existing or proposed block, or per proposed subdivision inclusive of all phases approved; whichever is less.
  - (2). The strip accessing the portion of the lot, the width of which is less than the minimum lot width at the building line, shall not extend more than 500 feet from the right-of-way from which it is accessed.
  - (3). The access strip, as described, shall be subject to all site distance requirements otherwise applicable to the respective type of access proposed.
  - (4). The net area of the lot, excluding the access strip, shall meet the minimum lot size requirements within the respective district as imposed by the Zoning Ordinance.
- K. Access. Where a proposed residential subdivision bears more than fourteen residential principal structures or where a cul-de-sac extends greater than 2,500 feet, Council may require the following based upon considerations of topography limitations and sight distance:
  - (1). Multiple access points to a subdivision or land development.
  - (2). A turnaround at or near the midpoint of a cul-de-sac street.
  - (3). Loop streets internal to the subdivision or land development.

**621. General Street Design and Construction Standards**

- A. The arrangement of streets shall be in compliance with the Borough's Official Map, where said Map exists.
- B. In general all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to insure circulation of vehicular and pedestrian traffic, with exception that local residential streets shall be laid out to include the use of loop and cul-de-sac streets, and other traffic calming devices in order to that extent to which their configuration may encourage through traffic in a manner that would classify the street as a residential collector.
- C. All streets shall be graded to the full right-of-way width thereof to grades established by the plan. All fills shall be thoroughly compacted by

approved methods to the satisfaction of the Borough Engineer and completely settled before any paving is placed thereon.

- D. Where in the judgment of the Borough Engineer, pipe and/or stone underdrains are required, the developer shall construct such underdrains under the direction of the Borough Engineer.
- E. Streets and access drives shall have a grade not to exceed seven percent (7%) for a distance within twenty-five feet (25') of the right-of-way line of any intersecting street.
- F. Intersections of more than two (2) streets shall be avoided. Where this proves impossible, such intersection shall be designed with care for safety, and suitable curbs, barriers, signs and other devices in accordance with Penn Dot standards, may be required.
- G. Streets entering opposite sides of another street shall be laid out either directly opposite one another or else shall have a minimum offset of one hundred fifty feet (150') between the centerlines of said opposite streets.
- H. Where a proposed development abuts or encompasses an existing or proposed collector or arterial street, marginal access streets, reverse frontage lots with buffer yards, or deep lots with rear service alleys may be required in order to protect properties and provide separation of through and local traffic.
- I. Access Management Street Standards. All Land developments and subdivisions bearing frontage on Beaver Road and Main Street/Route 19 where each respectively extends in a southwesterly and southerly direction from the intersection with Culvert Street shall be limited to one access point per parcel where the following shall apply.
  - (1). Access drives or streets proposed within 200 feet of existing streets and access drives shall be located the greatest distance from said intersections given site distance requirements relating to the proposed access, greatest distance possible from public street intersections, and Pennsylvania Department of Transportation Highway Occupancy Permit Requirements.
  - (2). In cases where a subdivision of a parcel is proposed, the applicant shall provide an access easement, in consideration of all standards outlined in this ordinance, which demonstrates one point of access and provides for a marginal access street to all parcels involved.
- J. Council may require similar easements and access limitations as cited in 902 I(2) on other streets within the Borough based upon findings of required traffic studies, known safety issues and accident histories, the Official Map, and the reasonable ability to utilize existing marginal access streets.
- K. Private Street Maintenance. Where private streets are proposed, maintenance shall be demonstrated through homeowner's or

condominium association declaration documents or covenants in a form acceptable to the Borough Solicitor as a means of providing maintenance of the streets as proposed and approved, including winter maintenance. Where no such association is proposed, namely in minor plans, a note shall be affixed to the final plat giving notice to all owners of lots within the plan that each shall share equitably in the aforesaid maintenance. Association documents, as required, shall be recorded with the final plat.

- L. Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to Council and shall be sufficient to support the street or adjacent lands, as may be the case. Such walls or slopes shall be outside the required right-of-way, except that slopes may extend not more than five feet (5') in the right-of-way, with the prior written approval of Council, so long as the toe of such slopes is not within five feet of the cartway.
- M. Guiderails shall be required by the Borough Engineer where Penn Dot standards require the installation of guiderails or where other compelling safety factors exist.
- N. Street shoulders and all filled areas within street right- of-way shall be constructed with stone backfill from roadway or structure excavation supplemented by additional stone backfill, if directed from borrowed excavation; the entire fill area shall be uniformly and thoroughly compacted to the satisfaction of the Borough Engineer and shall be performed in accordance with the Pennsylvania Department of Transportation Specifications form 408. Embankments at the sides of streets and cross sections of drainage ditches, shall not exceed a maximum slope of one foot (1') vertically to two feet (2') horizontally in a cut section and one foot (1') vertically to two feet (2') horizontally in a fill section; shoulders shall slope upward from the back of the curb a distance of seven feet (7') at approximately one and one-half inches (1.5") per foot but not exceeding twelve inches (12"). On low side lots one inch (1") per foot for seven feet (7') shall slope downwards from the back of the curbs.
- O. All streets, alleys, and access drives shall be constructed on a prepared sub grade conforming to Section 210 of the publication of the Commonwealth of Pennsylvania, Department of Transportation, form 408 Specifications (latest edition).
- P. Before any paving, placing of base material or finish grading of subgrade is performed in a new plan of lots, all underground utilities within the right-of-way should be in place and properly backfilled. "Utilities" includes water and gas lines and house connections laid in trenches under the pavement; manholes, storm sewers, catch basins; subgrade drains; and any other utility line laid in a trench or located under the pavement.

"Utilities" does not include those lines which are jacked or drilled under the pavement. "Utilities" does not include those water and gas house connections and those sewer laterals and house connections which do not cross under the pavement.

- Q. Generally, all private streets shall be held to the same standards as public streets.
- R. Deceleration, turning or merging lanes maybe required by the Borough along existing and proposed collector or arterial roads.
- S. A temporary turnaround shall be provided at the end of dead-end streets which are intended to be extended as through streets in the future. If the length of a dead-end street exceeds the depth of one lot, the temporary turnaround shall be constructed with an all-weather surface, a minimum cartway radius of 40 feet, and its use

**622. Street Curb Radii**

- A. 25' for local and collector street intersections with collector streets, other local streets, and alleys.
- B. Up to 50' for arterials streets and streets intersecting arterial streets, depending upon projected trips and overall proposed functionality as evaluated by the Borough Engineer.

**623. Clear Site Triangle Requirements**

- A. Minimum values for "L" are as follows:
- B. Arterial roads: L = 500 feet.
- C. Collector streets: L = 300 feet.
- D. Minor collector streets: L = 200 feet.
- E. Local streets and Access Drives: L = 200 feet.
- F. No plantings or structures exceeding 30 inches in height shall be permitted in the clear sight triangle. A public right-of-entry shall be reserved for the purpose of removing any object that obstructs the clear sight triangle and so dedicated by separate instrument or on the recorded plat.

**624. Design speeds**

- A. Design speeds shall be as follows:
- B. Arterial roads: 50 MPH.
- C. Collector streets: 35 MPH.
- D. Minor collector streets: 25 MPH.
- E. Local streets: 25 MPH.

**625. Street grades**

- A. The entire width of the right-of-way of each street in a proposed subdivision shall be graded, except where areas of steep slope or landslide prone soils are unavoidably present within the right-of-way.
- B. Minimum permitted street grade for all streets shall be 1%.
- C. Maximum street grades, other than due allowance for vertical curves, shall be as follows:
  - (1). Arterial roads: 6%.
  - (2). Collector streets: 8%.
  - (3). Minor collector streets, nonresidential: 10%.
  - (4). Minor collector and local streets, residential, alleys, and access drives: 10%.
- D. Street grades shall be measured along the center line of the street.
- E. Center line grade on the head of a cul-de-sac or hammerhead shall not exceed 5%.

**626. Street alignment**

- A. Minimum safe stopping sight distances on all vertical and horizontal curves shall as follows:
  - (1). Twenty miles per hour: 110 feet.
  - (2). Twenty-five miles per hour: 780 feet.
  - (3). Thirty-five miles per hour: 250 feet.
- B. Minimum center line radii for horizontal curves shall be as follows:
  - (1). Arterial roads: 700 feet.
  - (2). Collector streets: 350 feet.
  - (3). Minor collector streets: 200 feet.
  - (4). Local streets: 100 feet.
- C. For other than local streets, a minimum tangent of 100 feet between reverse curves shall be provided. For local streets a lesser tangent may be acceptable, provided safe stopping distances are maintained as per Subsection 907. Broken-back curves shall be avoided; however, when they must be used, a minimum tangent of 150 feet shall be provided.
- D. Vertical curves shall be provided for all changes in grade exceeding 1%. For each 1% of algebraic difference between tangent grades over 3%, at least 15 feet of vertical curve length shall be provided. Minimum vertical curve lengths shall be as follows:
  - (1). Arterial roads: 150 feet.

- (2). Collector streets: 100 feet.
- (3). Local streets, residential: 50 feet.
- E. Intersections.
  - (1). The angle of intersecting streets shall be as close to 90° as possible.
  - (2). No streets shall intersect at an angle less than 60°.
- F. Distance between intersections shall be as follows:
  - (1). Arterial roads: 800 feet.
  - (2). Collector streets: 300 feet.
  - (3). Local streets: 150 feet.

**627. Right-of-way Requirements**

- A. 50 feet of right-of-way is required for all streets.
- B. Council may require additional right of way where necessary for the installation of utilities and lanes required by this ordinance and Penn Dot standards.

**628. Alley Standards**

- A. Alleys shall have a minimum right-of-way of 20 feet and a minimum cartway of 16 feet.
- B. Where necessary, a radius shall be provided at the alley intersection, sufficient to accommodate any large vehicles that may be expected to use the alley.

**629. Cul-de-sac standards.**

- A. The following standards shall supersede or withstand those standards otherwise applied within this ordinance.
- B. Cul-de-sacs shall have a right-of-way width of no less than fifty feet (50') and shall have provision at the dead-end for a turn-around. The turn-around shall be either a circle with a diameter of at least eighty feet (80') or a tee, the arms of which shall extend at least sixty feet (60') on each side beyond the normal right-of- way width. No street grade shall be steeper than ten percent (10%).
- C. Cul-de-sacs may end in a turnaround which has a paved cartway not less than 20 feet in width, surrounding a landscaped island with a minimum radius of 24 feet or a cul-de-sac head with a radius of 40 feet and a cartway width of 14 feet surrounding a landscaped island shall be acceptable for one-way circulation.

- D. Hammerhead turnarounds may be used, if the cul-de-sac street does not provide access for more than eight dwelling units. The long dimension of the turnaround head shall be not less than 50 feet.

**630. Access Drives and Driveways**

- A. Access drives for non-residential land developments shall be at least 20 feet in width when serving parking areas of up to 30 spaces and 22 feet when serving more than 30 parking spaces.
- B. Access drives serving residential land developments shall be at least 20 feet in width.
- C. No driveway or access drive shall enter a public street closer to an existing intersection than 50 feet, and a reasonable safe sight distance shall be provided.
- D. The maximum permitted grade on residential driveways shall be 14%.
- E. A leveling area for all driveways and access drives shall be provided for a minimum distance of 12 feet, measured from the edge of the pavement of the intersecting street, at a maximum grade of 5%.
- F. Shared driveways for up to four single family homes shall be permitted and may have a maximum grade of 14%, provided that safe sight stopping distances are provided the length of the driveway. Pavement width may vary, but shall be appropriate to the length, width and gradient of the proposed driveway. The Borough Engineer may require shoulders or guide rail, if deemed necessary for safety. Said driveways shall be discouraged in preliminary or final subdivisions of greater than four lots, including those party to a site approved as a major plan within five years of said approval.

**631. Marginal Access Streets.**

- A. Council may approve marginal access streets subject to the standards of access drives specified in Section 911.
- B. Council may require the dedication of right-of-way up to 50 feet, at a minimum sufficient to accommodate utilities and storm water facilities associated, where future access and trip levels warrant said development.
- C. In such a case, the street shall otherwise meet those street standards, typically local or collector, as defined by ADT.
- D. Marginal Access Streets shall meet the grading standards of 906 regarding grading and 902(N) regarding sub-base.

**632. Water Supply.**

- A. An adequate supply of potable water shall be provided for every building to be used for human occupancy or habitation in a subdivision or land development.
- B. The applicant shall provide a complete on-site system with connections to such public water system in conformance with the standards and requirements of DEP and Zelmanople Borough.
- C. Where an existing public water system is not accessible to the proposed development, water may be supplied by a new public water system, subject to the approval of DEP.
- D. In the case of Subsection B or C, the applicant shall present evidence to the Borough that the subdivision or development is to be supplied with water by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, Borough or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area, whichever is appropriate, shall be acceptable evidence.
- E. Where public water supply systems are inaccessible and cannot be extended to the proposed development site, the applicant may provide potable water through individual water supplies.
- F. The use of private water systems shall not be permitted in any subdivision or land development with more than 5 lots, unless the applicant provides hydrogeological data, acceptable to the Borough Engineer assuring that adequate quantity and quality of water are available.
- G. Private water systems and individual water supplies may be permitted to be located off-site, provided that a permanent easement is recorded on the final plan, a legal agreement that sets forth clearly all of the rights and responsibilities of all affected parties is executed, and all other applicable provisions of this section are met.
- G. Subdivisions and land developments to be served by public water systems shall be provided with fire hydrants that meet all reasonable specifications of the Borough and Fire Company that will serve the development, including the spacing of hydrants such that all structures proposed lie within 1,000 lineal feet of a hydrant. Hydrants shall be delineated on the construction drawings submitted.
- H. The Borough may require easements where an access for water supply to adjacent properties is deemed to be feasible or necessary at some future date, based upon plans, topography and elevations, and development patterns.

**633. Sewerage**

- A. Sanitary sewage facilities required. All subdivisions and land developments, unless excepted in Subsection below, shall be provided with sanitary sewage facilities which are in accordance with the Zelianople Act 537 Plan and Western Butler County Authority and which have been approved by the Borough and the Pennsylvania Department of Environmental Protection. (1) No plat shall be finally approved or recorded until the plans and specifications for sanitary sewage facilities have been approved and permits issued, as required by the DEP. (a) Conditional final approval may be granted; however, provided that the complete Sewage Facilities Planning Module, as required for the proposed development, has been approved by the Borough and transmitted by the Borough to the Pennsylvania Department of Environmental Protection, together with a resolution adopting the revision to its sewage facilities plan, if required.
- B. All sanitary sewers and related facilities shall be constructed in accordance with requirements of DEP and Western Butler County Authority.
- C. If the subdivision can reasonably be served by the extension of an existing public sanitary sewer, as determined by the Borough Engineer and the Western Butler County Authority, the developer shall be required to provide a system of sanitary sewer mains and shall provide lateral connections for each lot.
- D. Private sanitary sewer systems may be permitted to be located off-site, provided that a permanent easement is recorded on the final plan, a legal agreement that sets forth clearly all of the rights and responsibilities of all affected parties is executed, and all other applicable provisions of this section are met.
- E. Exceptions.
  - (1). Administrative Approvals, Revisions, or Lot Line Revisions. Sewage facilities shall not be required for the aforesaid subdivisions that are classified as such in this chapter, that is, where no new lots are created or the expansion of facilities requires no additional equivalency dwelling units.
  - (2). Plans with no new development. Subdivisions and land developments in which no development of buildings or improvement of land for purposes requiring sewage facilities is proposed need not provide sanitary sewage facilities, provided a properly executed "Form B — Request for Non-Building Waiver" (PA DEP Bureau of Water Quality Management form ER-BWQ-349:6/92) has been submitted to and approved by DEP. Where a waiver is approved by DEP, the final plan for recording shall include the notation specified in Appendix 2(7)(A). Council may require

the additional recording of covenants or plan notes to ensure the proper notice and utilization of the subject lot for the purposes stated by the developer, where Council deems such requirement(s) appropriate.

- F. The Borough may require easements, commensurate with Authority standards, where accessible sewers are deemed to be feasible at some future date either to the site or to an adjacent property, based upon plans, topography and elevations, and development patterns.

**634. Other utilities and easements.**

- A. General requirement. Subdivisions and land developments shall be served by gas, electric, cable television, and telephone service distribution systems, where these systems are accessible to the development.
- B. Easements. Easements for public and private utilities shall comply with the requirements of the utility providers and with the following standards:
  - (1). Easements shall be adjacent to property lines where possible.
  - (2). Minimum widths for utility easements shall be 20 feet for public utilities and 10 feet for private utilities. Utility companies shall use common easements wherever possible.
- C. Underground wiring.
  - (1). Electric, telephone, television and other communication service lines shall be provided by wiring placed underground within easements or dedicated rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services unless the applicant demonstrates to the Public Utilities Commission that physical conditions render such underground installation infeasible.
  - (2). If a lot abuts an easement or right-of-way with existing overhead electrical, telephone, television or other service lines, the lot may utilize the overhead lines, but service connections shall be installed underground. Where a subdivision or land development requires a road widening or service extension that necessitates the replacement or relocation of overhead lines, replacement or relocation may be underground, in accordance with the requirements of the Public Utilities Commission.
  - (3). Where overhead lines are permitted, the placement and alignment of poles shall be designed to lessen the visual impact of overhead lines as follows: Alignments and pole locations should be routed to avoid locations along horizons. Poles should be located so that the need to clear swaths through treed areas is avoided or mitigated. Trees should be planted in open areas and at key locations to

minimize the view of the poles and lines. Alignments should generally follow rear lot lines.

- D. Utility apparatus placed above ground, other than utility poles, shall be screened with plant materials.

**PART X, SUBDIVISION AND LAND DEVELOPMENT AMENITIES STANDARDS.**

**1000. General Landscaping Standards.**

A. Street Tree Requirements.

- (1). Street trees shall be required at the perimeters of all parking lots adjoining an existing or proposed street, and along all lots and open space within a subdivision adjoining an existing or proposed street at a minimum spacing of one small tree every 25 feet on center or medium or large trees at spaced at a distance not to exceed the average spread of the fully developed canopy of the trees plus five feet.
- (2). Trees shall be planted in a manner wherein the plantings are alternated when required in each side of the street such that the trees on one side are planted directly across from a point on the opposite side of the street equidistant from the street trees planted thereon.
- (3). Uniform species shall be planted in regard to streets and adjacent streets or parking lots. Council may require low, medium, or large trees commensurate with express plans and character of a neighborhood or business district.
- (4). Street Trees shall be planted no further than five feet from an adjacent right-of-way and may be planted within the right-of-way only with the express approval of Council.
- (5). Street trees shall be located so as not to interfere with the maintenance of utilities, required sight distances and visibility of street and traffic signs.
- (6). The species chosen shall be appropriate to the location. Factors such as microclimate, soils, habit of growth, salt, air pollution and disease tolerance, proximity of sidewalks and overhead utility lines, and social conditions (likelihood of soil compaction, vandalism, damage to dogs, deer, etc.) shall be considered.

B. Parking Lot Landscaping

- (1). In addition to the requirements listed above, the perimeters of parking lots shall be landscaped with those low level plantings required by this Part. Landscaping area shall be at least ten feet in depth from any adjacent street. However, said landscaping area adjoining a street within a Traditional Neighborhood Development or the C-1 Central Business District, excluding the C-1 Central Business District Overlay, shall be a minimum of five feet unless greater is required by the Zoning Ordinance. Additionally, low-level

plantings and screening shall be provided in the C-1 District as specified in the Zoning Ordinance.

- (2). Council may require additional screening such as hedges at a minimum height of 2.5 feet, masonry walls, and decorative fencing where Council finds that such screening is required to buffer the proposed use from nearby residential uses or residentially zoned properties.
- (3). Parking Lot Interior Areas
  - a. Landscaping in the interior of parking lots shall be designed to provide visual and climatic relief from large expanses of paving, to channelize vehicular traffic and to define lots for safe pedestrian circulation.
  - b. Where lots exceed thirty spaces, one landscaping island shall be provided at least every fifteen spaces in each row.
  - c. The other requirements placed upon interior parking lot areas notwithstanding, at least 5% of the total area of any parking lot containing 30 spaces or less shall be landscaped, and at least 7% of any parking lot containing more than 30 parking spaces shall be landscaped.
  - d. In addition to other requirements of this Part, at least one large or medium tree and three low level plantings, or one small tree and three low level plantings shall be planted per 10 parking spaces, with at least one tree planted centrally in each island between spaces and with trees evenly spaced in islands between rows.
  - e. Where parking lots contain more than two rows of stalls, requiring access through multiple aisles, landscaped islands shall be provided between each row of stalls.
  - f. Trees required in this section shall be planted in protected lots such as along walkways, or within curbed islands located between rows of parking spaces, at the ends of bays, or between parking stalls.
  - g. Curbed landscaped islands shall have a minimum width of eight feet, or a minimum radius of 4 feet, exclusive of the curbing and shall be as long as the adjacent space(s).
  - h. No low level planting shall grow within two feet of any curb.

**C. General Site Planting Requirements.**

- (1). The following standards shall not apply to subdivisions and land developments within the C-1 Central Business District, excluding the C-1 Central Business District Overlay.

- (2). All land developments shall install low-level plantings at a minimum of one planting for every 1,000 square feet of site area.
  - (3). In all land developments and major subdivisions, all areas of existing steep slope, where required by this ordinance or the Zoning Ordinance to be preserved or undisturbed, shall possess a continuous coverage of deciduous native trees at maturity. A qualified professional forester shall prepare a plan determining the amount and location of additional tree plantings, where necessary, to achieve this standard. The plan shall contain an assessment of existing woodlands, and the state thereof, wherein diseased trees shall be replaced. Native evergreens may be employed where screening from adjacent uses is necessary.
  - (4). In addition to street trees required, each lot in a residential subdivision shall bear two small trees or one medium or large tree.
  - (5). In addition to street trees required, land developments shall provide two small trees or one medium or large tree for every 10,000 square feet of site area.
  - (6). Required landscaping shall be distributed around parking areas, building perimeters and required buffer areas.
  - (7). Council may require additional landscaping where the Zoning Ordinance requires buffering to adjacent properties.
  - (8). Storm water detention facilities shall require the planting of evergreen, medium, or large trees in a manner that effectively screens the facility or integrates the facility into adjoining open space.
- D. Prior to final approval, the developer of a major subdivision shall provide covenants in favor of the Borough whereby the maintenance or replacement of required tree plantings is guaranteed.

**635. Lighting Standards.**

- A. Lighting proposed shall be in accordance with the nuisance standards, heights, and locations required by the Zoning Ordinance.
- B. Non-Residential land developments shall adhere to the following standards:
  - (1). The following shall apply to all land developments cumulatively bearing less or 5,000 square feet of gross floor area. Parking lots or pedestrian ways, access lanes to parking lots and external storage of merchandise shall provide a uniformity ratio of 3:1 where the average foot-candles maintained within said areas equals 2.4.
  - (2). The following shall apply to all land developments cumulatively bearing more than 5,000 square feet of gross floor area. Parking

lots or pedestrian ways, access lanes to parking lots and external storage of merchandise shall provide a uniformity ratio of 3:1 where the average foot-candles maintained within said areas equals 3.6.

(3). Lighting proposed in all other areas shall bear no more than three foot-candles at any point on said portion of the property and an average of two foot candles distributed over said areas.

C. Multi-Family Developments shall provide lighting in parking lots or pedestrian ways, access drives to parking lots at an average of one foot-candle where no light emits more than two foot-candles on the ground at any point.

**636. Sidewalks**

- A. Sidewalks, if not existing, shall be required for all land developments and major subdivisions in accordance with Chapter \_\_\_\_\_ of the Zelianople Borough Code.
- B. Where adjoining sidewalks are in need of major repairs, as determined by the Borough Engineer, Council may require the replacement of any such sidewalks adjoining a site.
- C. Council may require the placement of sidewalks in such a manner as to connect directly to existing sidewalks adjoining the site.

**PART XI, DEVELOPMENT AND DESIGN STANDARDS, ENVIRONMENTALLY SENSITIVE AREAS**

**1100. Purpose.**

- A. Ensure development that minimizes storm water impacts.
- B. Ensure the preservation of wooded hillsides thereby furthering the respective objectives of this section.
- C. Minimize short and long term soil erosion within land development and subdivision sites.
- D. Minimize the impact on streams, wetlands, and steep slopes.
- E. Ensure the safety and integrity of structures constructed within the sites of land developments and subdivisions through proper construction in consideration of mine overburden and construction on slide prone soils.

**637. Limitations on slope disturbance.**

- A. The following standards shall apply to all grading and disturbance of land with slopes of 25% or greater.
- B. Slopes between 25% and 40%. No more than 30% of slope areas with existing grades between 25% and 40% shall be stripped of vegetation or disturbed through grading. Grading and clearing for roads on these slopes shall be limited to that necessary to accommodate the cartway and shoulders or berms. Wherever possible, roads should follow the contours of the land.
- C. Slopes exceeding 40%. No development or disturbance shall be allowed on slopes exceeding 40%. Limited disturbance for utilities may be allowed where no reasonable alternative location exists.
- D. Where construction is proposed in accordance with this section, within or disturbing steep slopes, the applicant shall include a geotechnical report, acceptable to the Borough Engineer. The report shall demonstrate a safety factor of 1.5 of greater and shall outline a revegetation plan ensuring immediate and long term stability.

**638. Undermined areas.**

- A. No land development involving construction of buildings and no subdivision of land intended to create lots for building construction shall be approved on a site which has been undermined at shallow depths or in an area where there is evidence of past subsidence unless the applicant demonstrates that the proposed subdivision or land development will be safe and will not create hazards for adjacent properties. Evidence of safety shall be one of the following.
  - (1). If the site or any area of the site has been undermined and has 100 feet or less of overburden, evidence of the safety of the

proposed subdivision or land development shall require site investigation and certification in writing by a professional engineer, experienced in subsidence risk assessment, that the proposed development will be safe.

(2). If the site has been undermined and has more than 100 feet of overburden, a subsidence risk assessment included in a geotechnical report by a professional engineer and written certification that the proposed subdivision or land development will be safe may be required if the Borough, Borough Engineer, of applicant has knowledge of any past occurrences of subsidence in the general vicinity of the site.

B. Council may require the installation of certain construction measures accepted by the Borough Engineer as per recommendations of the risk assessment required, as a condition of building permit(s) on the site. Council may further require the inclusion of such standards in the plan covenants, as a note on the plat, or through a developer's agreement applicable to the developer's heirs and assigns.

### **639. Landslide-prone areas.**

No grading, removal of vegetation, construction or other disturbance shall be permitted on soils that are classified as slide-prone or unstable in the Soil Survey of Butler County or on any other areas of a proposed development site that exhibit signs of instability, except in accordance with the provisions of this section.

- A. Disturbance of landslide prone areas of construction thereon shall be severely limited.
- B. Disturbance of unstable areas may be permitted, where alternative site designs have been exhausted, and where the developer demonstrates to the satisfaction of the Borough Engineer through a geotechnical report that the proposed disturbance will not cause sliding or movement or any unsafe condition either on the development site or on any property adjacent to it.
- C. Evidence of the safety of any proposed disturbance shall require site investigation and certification in writing by a registered soils engineer, engineering geologist or professional engineer with experience in soils engineering that the proposed activity will not create or exacerbate unsafe conditions.

### **640. Watercourses and Wetlands**

- A. Setback or open space easement required. No grading, cutting, filling, removal or vegetation, or other disturbance of land shall be permitted within the required setback.

- B. The minimum setback for watercourses shall be 20 feet, measured from the top of the channel bank.
- C. The setback for wetlands shall be 50 feet for wetlands one acre or greater and 25 feet for wetlands less than one acre or at a variable setback depth, based on a wetland management plan prepared by a certified professional wetlands biologist. In no case, however, shall the setback be less than 10 feet from the delineated edge of a wetland less than acre in extent; or 20 feet from the delineated edge of a wetland one acre or more in extent.
- D. Minor earth disturbance and construction within the area of the required setback or easement, required for development in other areas of the site, may be allowed in accordance with all regulations of the Department of Environmental Protection and Borough floodplain regulations, where applicable.
- E. Construction may also be allowed within the required setback area of rivers to enable the development of uses that require proximity or access to the river, in accordance with applicable Federal, DEP and municipal regulations.
- F. This section shall not withstand the ability of a developer to utilize wetland mitigation measures offered by the DEP. Approval of all applicable permits associated bonding, and other commitments guaranteeing the completion shall then become a condition of approval to be provided prior to plan recording.

**PART XII, MOBILE HOME PARKS**

**1200. Application Process**

For purposes of this ordinance, any development or addition or lots to a mobile home park shall be classified as a major land development, subject to all requirements thereof.

**1201. Additional Plan Requirements**

Each application showing proposed conditions shall include a plot plan drawn at a scale of one inch (1") equals twenty feet (20'), prepared by a licensed surveyor or engineer, showing limits and square footage of the proposed mobile home park and location and size of driveways, parking areas, drying areas, playgrounds, service buildings, other buildings, mobile home lots, together with required setbacks from rights-of-way and property lines. All trailer lots shall be numbered in sequence on the plot plan.

Markers. Every mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the plot plan.

Access Drives. The minimum lane or access drive on which an individual mobile home lot fronts shall be twenty-eight feet (28') in width. In cases where access drives dead end, there shall be constructed at each such dead end a cul-de-sac with a minimum turning radius of thirty-eight feet (38'). When an entrance to any mobile home park is from a state highway, approval of said entrance from the State Highway Department must be secured before said development is approved.

Access drives shall provide street trees commensurate with those requirements of 1000(A).

**PART XIII, WAIVERS AND MODIFICATIONS**

1300. Council may grant a modification or waiver of the requirements of one or more provisions of this ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.
1301. Council may grant a request for a modification of the requirements of this ordinance where the developer or applicant demonstrates that the performance objectives of the subject provision are met or exceeded by the modification proposed.
1302. 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 the ordinance involved and the minimum modification necessary.
1303. Where an alternative to adopted ordinance requirements is proposed, absent the claim of a hardship is presented, the applicant shall submit sufficient evidence to substantiate the equal or greater performance of the proposed alternative versus that required by this ordinance.
1304. The request shall be reviewed by the Planning Commission, wherein the Commission's recommendation to Council shall include specific reference to the modification of waiver requested.
1305. In addition to the above waivers, Council may waive the requirement for sidewalks in Section 1002 where the existing grade adjoining the street is eight percent or greater and cannot reasonably be altered; where the average lot frontage directly adjoining a subject street is 200 feet or more and no pedestrian connection of the subject street to adjoining planned streets necessitates sidewalks; or in accordance with any other standard of this part.
1306. Council shall keep a written record of all action on all requests for modifications.

## PART XIV, ENFORCEMENT AND PENALTIES

### 1400. Preventative Remedies

- A. The Borough shall 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 ordinance. Aforesaid development shall include any improvement of a property substantially inconsistent with an approved land development or subdivision, any conditions related thereto as accepted by the applicant, or the construction of a land development in violation of this ordinance. The authority to deny such a permit or approval shall apply to any of the following applicants:
- (1). The owner of record at the time of such violation.
  - (2). The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
  - (3). The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - (4). The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation. 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.

### 1401. Enforcement Remedies

- A. Any person, partnership or corporation who or which has violated the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof.
- B. 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 be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

**PART XV, ADOPTION**

**1500. Separability**

Any section, subsection or provision of this chapter that is declared to be invalid by a court of competent jurisdiction shall not affect the validity of any other part of this chapter or the chapter as a whole.

**641. Amendments**

This chapter may be amended by Council in accordance with the procedures specified in the MPC.

**642. Effective Date**

This chapter shall become effective the day immediately following the date of adoption by Council.