

## **Chapter 22**

### **Subdivision and Land Development**

#### **Part 1**

##### **Purpose, Title and Authority**

- §22-101. General
- §22-102. Effect
- §22-103. Title
- §22-104. Authority
- §22-105. Authority of the Lycoming County Planning Commission

#### **Part 2**

##### **Definitions**

- §22-201. Interpretation of Words
- §22-202. Definition of Terms

#### **Part 3**

##### **Modifications**

- §22-301. General
- §22-302. Conditions
- §22-303. Large Scale Development

#### **Part 4**

##### **Plan Requirements and Processing Procedures**

- §22-401. General
- §22-402. Preapplication Conference (Optional)
- §22-403. Plans and Data for Preliminary Approval
- §22-404. Plans and Data for Final Approval
- §22-405. Filing of Plans
- §22-406. Minor Subdivision
- §22-407. Fees

#### **Part 5**

##### **Design Standards**

- §22-501. General Standards
- §22-502. Streets
- §22-503. Lot Access and Easements
- §22-504. Blocks
- §22-505. Public Grounds and Open Spaces
- §22-506. Storm Drainage
- §22-507. Sanitary Sewers and Public Water
- §22-508. Utility Location

- §22-509. Erosion and Sedimentation Control
- §22-510. Grading for Drainage
- §22-511. Responsibilities

**Part 6**  
**Improvement and Construction Requirements**

- §22-601. Monuments and Markers
- §22-602. Utility and Street Improvements
- §22-603. Erosion and Sedimentation Compliance (See §22-501)

**Part 7**  
**Conditions of Acceptance**

- §22-701. Development Control
- §22-702. Recording
- §22-703. Sale of Lots; Issuance of Building Permit; or, Erection of Building
- §22-704. General Provisions

**Part 8**  
**Mobile Home Parks**

- §22-801. Purpose
- §22-802. Permits and License
- §22-803. Submission of Plans and Specifications to the Township
- §22-804. Fees
- §22-805. Required Separation Between Mobile Homes
- §22-806. Required Recreation Areas
- §22-807. Required Setbacks, Buffer Strips and Screening
- §22-808. Park Street System
- §22-809. Required Off-Street Parking Areas
- §22-810. Mobile Home Stand
- §22-811. Area
- §22-812. Water Supply
- §22-813. Sewage Collection and Disposal
- §22-814. Electric, Telephone, and TV Cable Distribution Systems

**Part 9**  
**Administration**

- §22-901. Preventive Remedies
- §22-902. Enforcement
- §22-903. Board of Supervisors Authority
- §22-904. Appeals to Court from Subdivision and Land Development Decisions
- §22-905. Amendments

**Part 10**  
**Floodplain Management Regulations**

**A. General**

- §22-1001. Purpose
- §22-1002. Abrogation and Greater Restrictions
- §22-1003. Municipal Liability
- §22-1004. Interpretation and Effect upon Flood Levels

**B. Application Procedures and Plat Requirements for Flood Hazard Areas**

- §22-1011. Preliminary Plan Requirements
- §22-1012. Final Plan Requirements
- §22-1013. Performance Bond

**C. Design Standards and Improvements in Flood Hazard Area**

- §22-1021. General
- §22-1022. Excavation and Grading
- §22-1023. Alteration of Streams or Watercourses
- §22-1024. Streets
- §22-1025. Sewer Facilities
- §22-1026. Water Facilities
- §22-1027. Other Public Utilities and Facilities
- §22-1028. Drainage Facilities



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**Part 1****Purpose, Title and Authority****§22-101. General.**

This Chapter has been designed and adopted to provide uniform standards and procedures for the regulation and control of subdivision and land development within Hepburn Township. The purpose of such regulation and control is to provide for the safe and coordinated development of the Township by assuring sites suitable for building purposes and human habitation; by coordinating proposed streets and other proposed public improvements with those existing; by assuring that adequate easements or rights-of-way are provided for drainage facilities and public utilities in general; and by assuring that reservations, if any, by the developer of any area designated for use as public grounds shall be suitable in size and location for their designated uses.

*(Ord. 74-2, 7/2/1974)*

**§22-102. Effect.**

The following Chapter, including Appendices, shall be in full force and effect, including definitions, plan requirements and processing procedures, design standards, improvements and construction requirements and conditions of acceptance of public improvements by the Township of Hepburn.

*(Ord. 74-2, 7/2/1974)*

**§22-103. Title.**

This Chapter shall be known as the “Hepburn Township Subdivision and Land Development Ordinance.”

*(Ord. 74-2, 7/2/1974)*

**§22-104. Authority.**

This Chapter is adopted pursuant to the provisions of the Pennsylvania Municipalities Planning Code effective January 1, 1969, 53 P.S. §10101 *et seq.*, as amended.

*(Ord. 74-2, 7/2/1974)*

**§22-105. Authority of the Lycoming County Planning Commission.**

All applications for subdivision and land development located within Hepburn Township shall be forwarded upon receipt by the Township to the County planning agency for review and report at the applicant's expense. The Township shall not approve such applications until the County report is received or until the expiration of 30 days from the date the application was forwarded to the County.

*(Ord. 74-2, 7/2/1974)*



**Part 2****Definitions****§22-201. Interpretation of Words.**

Unless otherwise expressly stated, the following words shall, for the purpose of this Chapter, have the meaning herein indicated:

- A. The singular includes the plural.
- B. The word “person” includes a corporation or other entity as well as an individual.
- C. The word “lot” includes the word “plot” or “parcel.”
- D. The term “shall” is always mandatory.
- E. Words used in the present tense shall include the future.
- F. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”
- G. The word “see” when used in connection with making a reference to another Section of this Chapter shall mean that the referred to Section shall be deemed to be included to and added in the Section where the word “see” is used, as though said referred to Section were fully set forth thereto, unless the use of the word “see” and the reference made to other Sections of the Chapter clearly indicate otherwise.”
- H. When a series of definitions is given, the same shall be construed consistently, wherever possible and, if they cannot be construed consistently, shall be construed as being given in the alternative.

(Ord. 74-2, 7/2/1974)

**§22-202. Definition of Terms.**

*Accessory use* - a use customarily incidental and subordinate to the principal use or building or structure and located on the same lot with such principal use or building, but separate from the principal structure.

*Adult bookstore* - includes any store, establishment or business or commercial enterprise that engages in the sale of books, commonly denoted “adult books” which shall be regarded as being books that have as their main or central theme any appeal to the prurient interest without any redeeming social value. Any such business or enterprise selling said books, shall be included in the term “adult bookstore.” [Ord. 83-2]

*Adult theater* - includes any theater or other business or commercial activity that shows any film that would commonly be noted as an “adult film” which shall be regarded as being a film that would have as its main or central theme any appeal to the prurient interest without any redeeming social value. Any such business or enterprise shall be included herein in the word “adult theater.” [Ord. 83-2]

*Alley* - a public thoroughfare which affords only a secondary means of access to

abutting property and not intended for general traffic circulation.

*Alterations* - as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

*Alterations, structural* - any change in the support members of a building such as bearing walls, columns, beams, or girders.

*Apartment, conversion* - a dwelling altered by converting an existing dwelling into apartments for two or more families without substantially altering the exterior of the building.

*Apartment house* - A building arranged, intended or designed to be occupied by three or more families living independently of each other.

*Applicant* - A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

*Application for development* - every application, whether preliminary or final, required to be filed and approved prior to start of construction or development including, but not limited to, an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

*Area, building* - the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

*Area, net site* - the total area within the property lines excluding external streets.

*Auto court* - a building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "auto court" includes buildings designated as tourist courts, motor lodges, motels and similar appellations.

*Basement* - a story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than 5 feet or if used for business or dwelling purposes.

*Berm* - that portion of a street lying on either side of the cartway between the edge thereof and the adjacent road ditch, intended primarily for stopping and parking purposes.

*Boarding house* - any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire with or without meals. A rooming house and a dormitory shall be deemed a boarding house.

*Building* -

A. Any structure having a roof and intended for occupancy, or the shelter, housing or enclosure of persons, animals or chattel.

B. A combination of materials forming a structure and having walls and a roof, including all mobile home and trailers intended for human occupancy or habitation or other storage or protective purposes.

*Building, accessory* - a subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

*Building, detached* - a building surrounded by open space on the same lot.

*Building, front line of* - the line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches and covered patios, whether enclosed or unenclosed but does not include steps.

*Building, height of* - the vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

*Building line* - that line established by the required minimum setback from the street right-of-way for buildings and/or structures for the district involved. The building line shall be the point at which the lot width shall be measured.

*Building, principal* - a building in which is conducted the principal use of the lot on which it is located.

*Camp* - any one or more of the following, other than a hospital, place of detention or school offering general instruction:

A. *Type 1.* Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

B. *Type 2.* Any building or group of buildings, other than buildings constituting a Camp - Type 1, used for temporary or seasonal living purposes other than; (1) normal residential occupancy of a dwelling of a type permitted in the district in which situated or (2) normal occupancy of a hotel, rooming house, tourist home or automobile court.

C. *Type 3.* Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and shall apply to any of the foregoing establishments whether or not conducted for profit and whether occupied by adults or by children, whether as individuals, families or groups.

*Camping-ground* - a parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

*Carport* - see "garage, private."

*Cartway* - that portion of a street which is improved, designated, or intended for vehicular use.

*Cellar* - a story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

*Clear sight triangle* - an area of unobstructed vision at street intersections. It is defined by lines of sight between points at a given distance from the intersection of the street center lines.

*Concentrated agriculture* - any agriculture use that fits within the definition of COA or CAFO as defined in the Pennsylvania Nutrient Management Act as may be amended from time to time. [Ord. 11.2.04]

*Conditional use* - a use which may be permitted in one or more zoning districts upon the recommendation of the Township Planning Commission to the Board of Township Supervisors who may grant approval pursuant to certain standards and criteria and the provisions of this Chapter.

*County* - the County of Lycoming, Pennsylvania.

*Court* - an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

*Court, inner* - a court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.

*Court, outer* - a court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

*Coverage* - that percentage of the plot or lot area covered by the area of all buildings on the lot.

*Cul-de-sac* - a relatively short dead end street with a turnaround provided.

*Curb level* - the officially established grade of the curb in front of the mid-point of the lot.

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

*Developer* - any landowner, agents of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

*Development* - any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation, drilling operations, or the storage of materials and equipment. [Ord. 1994-9]

*Dog kennel* - the keeping of more than three dogs that are more than 6 months old.

*Dormitory* - see "boarding house."

*Dump* - a lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof, or waste material of any kind.

*Dwelling* - a building designed or used for residential occupancy as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "multiple dwelling," "two-family dwelling," or "dwelling group" shall not be deemed to include automobile court, rooming house, tourist home, motel, or hotel.

*Dwelling, one-family* - a building designed for or occupied exclusively by one family.

*Dwelling, one-family detached* - a building accommodating but a single-family and having two side yards.

*Dwelling, two-family* - a building designed specifically for or occupied exclusively by two families living independently of each other and of one-story or two-story design.

*Dwelling, multiple* - a building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, condominium, and group houses.

*Dwelling, group* - a group of two or more one-family, two-family or multiple dwellings occupying a lot in one ownership and having any yard in common.

*Dwelling, townhouse* - a dwelling, the walls on two sides of which are in common with the walls of adjoining dwellings and are party or lot line walls. No structure shall contain more than twelve units.

*Dwelling unit* - a building or portion thereof providing complete housekeeping facilities for one family.

*Easement* - a right-of-way granted for the limited use of land for public or quasi-public purposes.

*Electric substation* - an assemblage of equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purpose of switching or modifying its characteristics to meet the needs of the general public.

*Erosion* - the removal of surface materials by the action of natural elements.

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

*Existing mobile home park* - a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale, for which construction of facilities for servicing the lot on which the mobile home is to be affixed (including at a minimum the installation of utilities, either final site grading or the pouring of pads or sites and construction of structures) is completed before the effective date of this Chapter amendment.

*Family* - one or more persons who live together in a common household. May consist of a single person or two or more persons, related by blood, marriage, or adoption. May also include domestic servants and gratuitous guests.

*Farm* - any parcel of land containing at least 10 acres which is used in the raising of agriculture products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels.

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

*Flood* - a temporary inundation of normally dry land areas.

*Flood fringe* - that portion of the 100-year floodplain outside the floodway,

excluding areas shown as approximated 100-year flood zones on Hepburn Township's Flood Boundary and Floodway Maps.

*Floodplain* - (A) A relatively flat or low land area adjoining a river, stream, or watercourse, which is subject to partial or complete inundation, (B) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source, (C) an area subject to mudslides caused by accumulation of water on or underground, (D) same as "general floodplain."

*Flood-prone area* - same as "floodplain."

*Floodproofing* - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

*Floodway* - the designated area of a floodplain as shown on Hepburn Township's Flood Boundary and Floodway Maps required to carry and discharge a flood of a 100-year frequency without cumulatively increasing the water surface elevation more than 1 foot at any point.

*Floor area of a building* - the sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to business or dwelling purposes but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

*Floor area, habitable* - the aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellar, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than 7 feet and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered as part of the habitable floor area. The minimum total window area, measured between stops shall be 10 percent of the habitable floor area of such room.

*Floor area ratio of a building* - the quotient of the sum of all the floor area of a building divided by its lot area.

*Freeboard* - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Garage, private* - an enclosed or partly enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. For the purposes of this Chapter, the term "private garage" shall include the term "carport."

*Garage, public* - any garage not a private garage, and which is used for storage, parking, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

*General floodplain* - that portion of the floodplain area for which no special flood

profiles exist and which is designated as approximated area on Hepburn Township's Flood Boundary and Floodway Maps.

*Governing Body* - shall mean the Board of Supervisors of Hepburn Township, Lycoming County, Pennsylvania.

*Grade, established* - the elevation of the center line of the streets as officially established by the municipal authorities.

*Grade, finished* - the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

*Historic structure* - any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior.

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or,

(2) Directly by the Secretary of the Interior in states without approved programs.

[Ord. 1994-9]

*Home occupation* - a home occupation is a use entirely within a dwelling or accessory building that is clearly incidental and secondary to the principal residential use provided the following are met:

A. That no external alterations or structural changes are necessary.

B. The occupation does not produce offensive noise, vibrations, heat, dust or other objectionable conditions.

C. No outside storage is required.

D. No more than 25 percent of the gross area of a dwelling unit is used for such purpose.

E. Not more than one nonoccupant is employed.

F. Adequate off-street parking provided.

G. Does not alter in any material way the character of the property as essentially a residence.

[Ord. 11.2.04]

*Hospital* - a place for the diagnosis, treatment, or other care of humans and having

facilities for inpatient care including such establishments as a sanatorium, sanitarium, and preventorium.

*Hotel* - a building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by transient guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

*House trailer* - see “recreation vehicle.”

*Junkyard* - see “scrapyard.”

*Land development* - (A) the improvement of one or more contiguous lots, tracts or parcels of land for any purpose involving (1) a group of two or more buildings, or (2) the division or allocation of land between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, building groups or other features; (B) a division of land into lots for the purpose of conveying such lots singly or in groups to any person, partnership or corporation for the purpose of the erection of buildings by such person, partnership or corporation.

*Landowner* - the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee having a remaining term of not less than 40 years, or other persons having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this Chapter.

*Laundromat* - a business premises equipped with individual clothes washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use such as in the case of an apartment house.

*Line, street* - the dividing line between the street right-of-way and the lot.

*Lodging house* - a building in which three or more rooms are rented and in which meals are not served.

*Lot* - land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning or building permit for a building on such land.

*Lot of record* - a parcel of land held in single and separate ownership described by a recorded deed or other legal instrument which may or may not conform to the minimum regulations required herein.

*Lot, corner* - a parcel of land at the junction of, and fronting on, two or more intersecting streets. [Ord. 11.2.04]

*Lot, interior* - a lot other than a corner lot. [Ord. 11.2.04]

*Lot, through* - an interior lot having frontage on two parallel or approximately parallel streets. [Ord. 11.2.04]

*Lot lines* - the lines bounding a lot as defined herein. [Ord. 11.2.04]

*Mobile home* -

- A. A transportable, single-family dwelling intended for human occupancy,

office or place of assembly contained in one unit, or in two 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.

B. In floodplain areas only, “mobile home” shall include any park trailer, travel trailer, recreational vehicle or other similar vehicle which is placed on a site for more than 180 days or for a period of at least 30 consecutive days.

C. For purposes of this Chapter a mobile home shall not include park trailers, travel trailers, recreational vehicles, or other similar vehicles.

[Ord. 11.2.04]

*Mobile home lot* - a parcel of land for the placement of a single mobile home and the exclusive use of its occupants. [Ord. 11.2.04]

*Mobile home park* - a parcel of land under a single ownership which has been planned and improved for the placement of mobile homes for nontransient use. [Ord. 11.2.04]

*Municipality* - the Township of Hepburn, Lycoming County, Pennsylvania. [Ord. 11.2.04]

*New construction* - structures for which the start of construction commenced on or after February 17, 1982, and includes any subsequent improvements thereto. [Ord. 11.2.04]

*No-impact home-based business* - a business or commercial activity administrated or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. (See §27-633.1) [Ord. 11.2.04]

*Nonconforming use* - a structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated. [Ord. 11.2.04]

*Nursing or convalescent home* - any structure containing sleeping rooms where persons are housed or lodged and furnished with meals and nursing care. [Ord. 11.2.04]

*100-year flood* - a flood that on the average is likely to occur once every 100 years, i.e., that has 1 percent chance of occurring each year, although the flood may occur in any year. [Ord. 11.2.04]

*Open space* - a space, not occupied by a structure, open to the sky and on the same lot with the building or structure. [Ord. 11.2.04]

*Parking space* - the area required for parking one automobile, which in this Chapter is held to be an area of not less than 180 square feet, 9 feet wide and 20 feet long, plus space for access and passageways. [Ord. 11.2.04]

*Permanent private streets* - a street serving a minor subdivision, which is intended to remain permanently as a private street without being accepted, maintained or developed by the Township in any way and which shall not be offered for dedication by the developer nor offered or proposed or requested to become a public street by any person or entity in any matter. [Ord. 11.2.04]

*Planned residential development* - an area of land, controlled by a landowner, to be

developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, under the provisions of a municipal zoning ordinance. [Ord. 11.2.04]

*Planning Commission* or *Agency* - the Hepburn Township Planning Commission. [Ord. 11.2.04]

*Premises* - any lot, parcel or tract of land and any building constructed thereon. [Ord. 11.2.04]

*Principally above ground* - at least 51 percent of the actual cash value of the structure, less land value, is above ground. [Ord. 11.2.04]

*Private access drive* - a driveway consisting of an easement or lot extension serving not more than one lot and having a width of at least 20 feet, but less than 50 feet. [Ord. 11.2.04]

*Private streets* - all streets, roads or highways that have not been accepted by appropriate Township resolution as a public street or otherwise made a public street by court order or by statute of the Commonwealth of Pennsylvania. This term shall include those streets defined herein as a permanent private street. [Ord. 11.2.04]

*Plat* - the map or plan of a subdivision or land development, whether preliminary or final.

A. *Preliminary*. A tentative plan indicating the proposed layout of a subdivision prepared by the subdivider for submission to the Planning Commission for its consideration.

B. *Final*. A complete and exact plan of subdivision which is presented to the Planning Commission for approval and thence to the Board of Supervisors for final approval, and when approved, will be submitted by the subdivider to the Recorder of Deeds of Lycoming County for recording in accordance with law.

[Ord. 11.2.04]

*Public grounds* - shall include:

A. Parks, playgrounds and other public areas.

B. Sites for schools, sewage treatment, refuse disposal and other publicly-owned or operated facilities.

[Ord. 11.2.04]

*Public notice* - notice given of not more than 30 days and not less than 14 days in advance of any public hearing required by law. Such notice shall be published once each week for 2 successive weeks in a newspaper of general circulation in the Township of Hepburn, Lycoming County, Pennsylvania. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. [Ord. 11.2.04]

*Quarry, sand pit, gravel pit, top soil stripping* - a lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale or for processing into a product for sale, and exclusive of the process of grading a lot preparatory to the construction of a building. [Ord. 11.2.04]

*Recreation vehicle* - any portable or mobile vehicle used or designed to be used for travel, recreation and/or living purposes; and with its wheels, rollers, or skids in place.

A recreation vehicle shall include trailer, airplane or other similar vehicle providing partial and usually temporary living and sleeping quarters and which may or may not include kitchen and bathroom conveniences. [Ord. 11.2.04]

*Recreation vehicle park* - a tract of land where:

A. Two or more recreation vehicles are parked.

B. Which is used or held out for the purpose of supplying to the public a parking space for two or more recreational vehicles.

[Ord. 11.2.04]

*Residential hotel* - a dwelling mostly occupied by permanent guests and not by transients. It may include restaurants, newsstands and other accessory services primarily for serving its occupants and only incidentally the public. [Ord. 11.2.04]

*Riding academy* - any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment. [Ord. 11.2.04]

*Runoff* - the surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land. [Ord. 11.2.04]

*Sanitarium, sanatorium* - a private hospital, whether or not such facility is operated for profit. [Ord. 11.2.04]

*Scrapyard* - a lot, land or structure, or part thereof, used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or thereof. Such uses shall be classified as industrial. [Ord. 11.2.04]

*Sedimentation* - the process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as "sediment." [Ord. 11.2.04]

*Service station, automotive* - any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles. Automotive parts may be sold. [Ord. 11.2.04]

*Sign* - any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. "Sign" shall include, but not be limited to, any identification, description, illustration, structure or device which is visible from any public place and which draws attention to a product, service, place, activity, person, entity, institution, business, profession, commodity or entertainment. "Sign" shall also include, but not be limited to, any solicitation or the presentation and display of any emblem, painting, banner, pennant, placard or other structure or device whether played temporarily or permanently, to advertise, identify or convey information. "Sign" shall not include national, governmental, religious or corporate flags.

A. "Outdoor advertising device" shall mean any outdoor sign, light, figure, painting, drawing, message, plaque, poster, billboard or other structure or device which is designed, intended or used to advertise or inform or to draw attention to the subject of the same. As used throughout this Chapter, the word "sign" shall

include an outdoor advertising device, unless the same is specifically excluded.

B. "On-premises sign" shall be a sign which carries only messages strictly incidental to the lawful use of the premises on which the sign is located. Such sign may include, but not be limited to, messages including the business transacted, services rendered, goods sold or produced or activities conducted on the premises; the name of the business, name of the person, firm or corporation occupying the premises.

C. "Off-premises sign" or "off-site sign" shall be a sign, the subject of which need not necessarily be limited to a message or communication strictly incidental to the lawful use of the premises upon which it is erected, but may refer to subject matter or activities which are not carried out upon nor incidental to the use of the premises upon which the sign is erected.

D. "Sign area." The area of a sign shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign. Sign area shall be inclusive of any border and trim, but shall not include the base or apron, supports, or other structural members.

[Ord. 11.2.04]

*Sketch plan* - a plan submitted at the option of the applicant, usually a freehand drawing of any idea for a proposed subdivision and land development; which may show the layout of streets, lots, and other pertinent features. It is advisable that it be drawn on a general topographic or tax map. [Ord. 11.2.04]

*Slope* - the face of an embankment or cut section; and ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance. [Ord. 11.2.04]

*Soil stabilization* - chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise to improve its engineering properties. [Ord. 11.2.04]

*Special exception* - a special use in one or more districts granted by the Zoning Hearing Board pursuant to certain specified conditions and the provisions of the Zoning Ordinance [Chapter 27]. [Ord. 11.2.04]

*Special permit* - a special approval which is required for hospitals, nursing homes, jails, new mobile home parks, substantial improvements to existing mobile home parks, and emergency response facilities when such development is located entirely or partially within a designated 100-year floodplain. [Ord. 11.2.04]

*Stable, private* - a building in which one or more horses are kept for private use and not for hire, remuneration or sale. [Ord. 11.2.04]

*Stable, public* - a building in which one or more horses are kept for remuneration, hire or sale. [Ord. 11.2.04]

*Story* - that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and ceiling next above it. [Ord. 11.2.04]

*Story, half* - a story under a gable, hop or gambrel roof, the wall plates of which on a least two opposite exterior walls are not more than 2 feet above the floor of such story. [Ord. 11.2.04]

*Streets* - street includes street, avenue, boulevard, road, highway, freeway,

parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private and for the purposes of this Chapter shall be classified as follows:

A. Arterial streets are those which are used primarily for through, fast or heavy traffic.

B. Collector streets are those which carry traffic from minor streets to the major system of arterial streets, including principal entrance streets of a residential development and streets for major circulation within such developments.

C. Minor streets are those which are used primarily for access to the abutting properties. These may be primarily access to homes in which case they will be minor residential streets.

D. Marginal access streets are minor streets which are parallel to and adjacent to arterial streets and which provide access to abutting properties and protection from through traffic.

E. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

F. Reverse frontage street. A minor street that provides access to lots that would otherwise front on an arterial street. With the introduction of a reverse frontage street, the lots front on the minor street with the rear lot lines along the arterial.

[Ord. 11.2.04]

*Street, grade* - the officially established grade of the street upon which a lot fronts or in its absence the established grade of other streets upon which the lot abuts, at the mid-point of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such mid-point shall be taken as the street grade.

[Ord. 11.2.04]

*Structure* - anything constructed or erected, the use of which demands a location on the soil, or attachment to something located in or on the soil. A structure shall also include any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [Ord. 11.2.04]

*Subdivider* - person, copartnership or corporation, who or which owns land in the Township and for which a land subdivision application is filed and processed under the provisions of this Chapter. [Ord. 11.2.04]

*Subdivision* - (A) the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution for heirs or devisees, transfer of ownership or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted; (B) any development of parcel of land or plan thereof, which involves the installation of streets or alleys or both, whether or not proposed for dedication, and any development of land for a shopping center, or for multiple dwellings.

(1) *Major Subdivision*. Any subdivision involving five or more lots, parcels of land or other divisions of land whether or not they involve new streets, additional

utilities or other facilities immediate or future.

(2) *Minor Subdivision*. Any subdivision involving not more than five lots, parcels of land or other divisions of land which abut a street of sufficient width and does not require a new street, the installation of sanitary sewers, storm sewers, water mains, or pipes, or other facilities, except that a subdivision otherwise qualifying as a minor street or streets are required, provided that the plans as submitted to the Planning Commission contain the same street detail as required for major subdivisions unless a degree of lesser detail is accepted by the Planning Commission.

[Ord. 11.2.04]

*Substantial damage* - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred. [Ord. 11.2.04]

*Substantial improvement* - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (A) before the improvement or repair is started or (B) if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not include either (1) any project for improvement of a structure to comply with existing state or local health sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places. [Ord. 11.2.04]

*Swale* - a low-lying stretch of land which gathers or carries surface water runoff. [Ord. 11.2.04]

*Telephone central office or telephone exchange building* - a building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone messages between subscribers and other business of the telephone company. [Ord. 11.2.04]

*Theater, moving picture* - a building or part of a building devoted to the showing of moving pictures on a paid admission basis. [Ord. 11.2.04]

*Theater, outdoor drive-in* - an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats. [Ord. 11.2.04]

*Topographic map* - a map showing the elevations of the ground by contours or elevations. [Ord. 11.2.04]

*Top soil* - surface soils and subsurface soils which presumably are fertile soils and soil material, ordinarily rich in organic matter or humus debris. Top soil is usually found in the uppermost soil layer called the “A Horizon.” [Ord. 11.2.04]

*Tourist cabins* - a group of buildings, including either separate cabins or a row of cabins which:

- A. Contain living and sleeping accommodations for transient occupancy.
- B. Have individual entrances.

[Ord. 11.2.04]

*Tourist home* - a dwelling in which overnight accommodations are provided or offered for transient guests for compensation. [Ord. 11.2.04]

*Township* - Hepburn Township, Lycoming County, Pennsylvania. [Ord. 11.2.04]

*Township Engineer* - a duly registered professional engineer employed by the Township or engaged as a consultant thereto. [Ord. 11.2.04]

*Trailer* - see “recreation vehicle.” [Ord. 11.2.04]

*Use* - the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use. [Ord. 11.2.04]

*Variance* - a modification of the regulations of the Zoning Ordinance [Chapter 27] granted by the Zoning Hearing Board on the grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of this Chapter. [Ord. 11.2.04]

*Watercourse* - a permanent stream, intermittent stream, river, brook, creek, or a channel or ditch for water whether natural or man-made. [Ord. 11.2.04]

*Window* - an opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window. [Ord. 11.2.04]

*Yard* - an unoccupied space, open to the sky, on the same lot with a building or structure. [Ord. 11.2.04]

*Yard, front* - a yard extending the full width of the lot and situated between the street right-of-way line and the required setback line projected to the side lines of the lot. The depth of the front yard shall be measured between the required setback line and the street right-of-way line. [Ord. 11.2.04]

*Yard, rear* - a yard extending the full width of the lot and situated between the rear line of the lot and situated between the rear line of the lot and the line establishing the required rear yard projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the adjacent right-of-way line of the alley or street if there be an alley or street, and the line establishing the rear yard. [Ord. 11.2.04]

*Yard, side* - a yard situated between the line establishing the required side yard area and adjacent side line of the lot and extending from the front yard to the rear yard. Any required yard not a rear yard or a front yard shall be deemed a side yard. [Ord. 11.2.04]

*Yards, corner lot* - corner lots have two front yards, one side yard and one rear yard. [Ord. 11.2.04]

(Ord. 74-2, 7/2/1974; as amended by Ord. 75-1, 1/6/1975; by Ord. 82-1, 2/17/1982; by Ord. 82-3, 2/19/1982; by Ord. 82-4, 4/6/1982; by Ord. 82-5, 7/6/1982; by Ord. 83-2, 2/8/1983; by Ord. 1985-1, 9/3/1985; by Ord. 1986-3, 10/7/1986; by Ord. 1994-9, 12/6/1994, §I; and by Ord. 11.2.04, 11/2/2004)



**Part 3****Modifications****§22-301. General.**

Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may request that the Board of Supervisors modify the regulations so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of the comprehensive plan or these regulations.

(Ord. 74-2, 7/2/1974)

**§22-302. Conditions.**

1. The standards and requirements of these regulations may be modified for encouraging and promoting flexibility, economy and ingenuity in the layout and design of subdivisions and land developments including provisions authorizing the planning agency to alter site requirements and for encouraging other practices which are in accordance with modern and evolving principles of site planning and development.

2. In granting modifications, the Planning Commission may require such conditions, as will, in its judgement, secure substantially the objectives of the standards or requirements so varied or modified. The recommending of modifications by the Planning Commission shall be conditional and subject to the final approval of the Board of Supervisors of the Township in cases where standards or requirements are reduced or modified.

(Ord. 74-2, 7/2/1974)

**§22-303. Large Scale Development.**

The standards and requirements of these regulations may be modified by the Board of Supervisors in the case of a plan or a program for a complete community, neighborhood unit, or a mobile home park, which in the judgment of the Planning Commission shall provide adequate public space and improvements for circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

A. *Mobile Home Parks.* (See §22-801.)

B. *Other Large Scale Development.* Not involving the subdivision of land to include, but not necessarily limited to, campgrounds, fairgrounds, industrial parks, shopping centers, planned residential developments, campus type educational facilities, nursing homes, correctional institutions and similar installations shall be subject to plan review, comment and adjustment by the Township Planning Commission and Board of Supervisors; however, prior to any local approvals, evidence of compliance with all rules and regulations of the State Departments of Environmental Protection and Transportation will be required. [Ord. 8.5.2008]

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)



**Part 4****Plan Requirements and Processing Procedures****§22-401. General.**

The plan requirements and processing procedures shall be followed by the applicant as set forth herein and all applications for subdivisions and land developments shall be submitted to the Planning Commission of the Township for review and tentative approval prior to consideration for formal approval by the Board of Supervisors.

(Ord. 74-2, 7/2/1974)

**§22-402. Preapplication Conference (Optional).**

Previous to the filing of an application for approval of the preliminary subdivision plan, the applicant should submit to the Planning Commission the following plans and data:

A. General information shall describe or outline existing covenants, land characteristics, community facilities and utilities; and information describing the proposed subdivision such as the number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas, other public areas, proposed protective covenants and proposed utilities and street improvements.

B. Location map shall show the relationship of the proposed subdivision and land development to existing community facilities which serve or influence it and shall include development name, location and any existing facilities; traffic arteries; public or other schools, parks, playgrounds; utilities; churches; shopping centers; airports; hospitals; principal places of employment; title; scale; north arrow; and date.

C. A sketch shall show in a simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions and may be freehand on a copy of a general topography map as shown on a U.S. geological survey map, and/or a copy of tax maps showing the property under discussion.

D. Prospective developers will consult the County Soil and Water Conservation District representative concerning erosion and sediment control and the effect of geologic conditions on the proposed development. At the same time, a determination can be made as to the result of the subdivision or development. Land that is subject to a lesser frequency of flooding, unusual and rapid accumulation of groundwater, and mudslides can be platted for development with the provision that the developer adequately floodproof all buildings and structures. [§22-1001 *et seq.*]

(Ord. 74-2, 7/2/1974)

**§22-403. Plans and Data for Preliminary Approval.**

Previous to the filing of an application for final approval of a plan, the applicant shall submit to the Planning Commission the following plans and data:

- A. *Existing Conditions Data.* As required for §22-402, plus the following:
- (1) *Boundary Lines.* Or property lines by bearings and distances.

(2) *Existing Easements.* Location, width and purpose.

(3) *Existing Streets.* On and adjacent to the tract by name, right-of-way, location; type, width and elevation of surfacing; walks, curbs, gutters and culverts.

(4) *Existing Utilities.* When applicable, show on and adjacent to the tract; location, size and invert elevation of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and street lights; if any of the above are not available at site indicate direction and distance to the nearest ones and furnish statement of availability.

(5) *Other Existing Conditions.* Water courses, marshes, rock outcrop, wooded areas, houses, barns and other significant features. If the applicant's tract is located where flood hazard exists the following information shall be provided:

(a) A drainage plan satisfactory to the Planning Commission. No plan shall be approved when the Planning Commission finds that drainage or flood control protection is necessary until plans for drainage and flood control are approved.

(b) *Street Elevation.* The Planning Commission shall not recommend approval of streets subject to flooding.

(6) *Proposed Public Improvements.* Highways, utilities or other major improvements planned by public authorities for future construction on or near the tract.

(7) *Ground Elevations on Tract.* Based on datum approved by Township Engineer or such other engineer qualified for the service; for land that slopes less than 2 percent show elevations at all breaks in grade and along drainage channels or swales not more than 100 feet apart; for land that slopes more than 2 percent show contours with an interval of not more than 5 feet and less in cases where necessary to show irregular land for planning purposes.

(8) *Title and Certificates.* Designation under which subdivision is to be recorded; names and addresses of owners; acreage, scale, north point, and benchmarks and date of survey. Certification of registered civil engineer or surveyor may be required when in the opinion of the Planning Commission the service is necessary to the public welfare.

B. *Plan Revision Module.*

(1) A revision to the Township official plan for sewerage systems must be prepared when an applicant applies for approval of a proposal to:

(a) Subdivide a parcel of land into three or more lots.

(b) Install a third or subsequent individual sewage system in a subdivision or otherwise platted tract.

(c) Install a community sewerage system. (Serves 3 or more individual lots.)

(d) Apply to the Department of Environmental Protection (DEP) for a permit for which DEP is the approving body. [Ord. 8.5.2008]

(2) The applicant shall be required to prepare the plan revision module in accord with the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, and 25 Pa.Code, §71.16. Copies of the form or guide to be used are entitled “Plan Revision Module for Land Development” and are available at any office of the Department of Environmental Protection. [Ord. 8.5.2008]

C. Preliminary plan shall be at a scale of 100 feet to 1 inch or larger, on a sheet not larger than 18 inches by 24 inches and shall show all existing conditions required in paragraph .A above and shall show all applicable proposals including, and not necessarily limited to, the following:

- (1) *Streets*. Names, right-of-way and cartway widths; approximate grades and typical cross sections.
- (2) *Easements*. Location, width and purpose.
- (3) *Utilities*. Location, type and approximate size; this information may be shown on a separate exhibit.
- (4) *Lots*. Lot lines and numbers.
- (5) *Sites*. To be reserved for parks, playgrounds or other public uses.
- (6) *Sites*. For shopping centers, churches, industry, multi-family dwellings or other use exclusive of single-family dwellings.
- (7) *Building Lines*. Dimensions of minimum building setback lines.
- (8) *Site Data Tabulation*. Number of residential lots, typical lot size, and acreage and use of other land areas.
- (9) *Title*. Scale, north arrow and date.
- (10) *Surface Water Drainage*. General plans for the collection of surface water and its outfall; and surface water runoff.

D. *Percolation Tests*. Percolation tests are required, unless all building lots are to be immediately served by a public or approved private sanitary sewer system, and shall be made by the local sanitarian, in accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection. All costs incurred shall be the responsibility of the applicant. DEP may require more extensive soil permeability investigation to assure proper functioning of the sewage disposal system. Such investigation shall be undertaken in accordance with DEP specifications and the expense of the developer. [Ord. 8.5.2008]

E. *Other Preliminary Plans*. When required by the Planning Commission, due to severe topography or other physical conditions, the preliminary plan shall be accompanied by such additional profiles showing existing ground surface deemed necessary to ascertain the workability of the plans.

F. At this point in time and activity the preliminary plan may be considered as officially submitted provided that the Planning Commission provides to the applicant a letter indicating that the preliminary plans and documents are substantially in conformance to the requirements of this Section in respect to preliminary plans. The community has a maximum of 90 days to take action on this preliminary filing. The 90-day period may be extended upon written agreement by and between the applicant and the community.

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

**§22-404. Plans and Data for Final Approval.**

After official action on the preliminary plans by the Planning Commission, final plans shall be submitted as follows:

A. Final submission plan shall be drawn in ink on durable material at a scale of 100 feet to 1 inch or larger. All plans shall be on sheets no larger than 18 inches by 24 inches. Where necessary, the plan may be on several sheets accompanied by an index sheet showing the entire subdivision. The final plan shall show:

- (1) Primary control points, to which all dimensions, angles, bearings, and similar data on the plan shall be referred.
- (2) Information as required under §22-403 hereof.
- (3) Location and description of survey monuments.
- (4) Names of owners of adjoining land.
- (5) Certification as to the accuracy of survey and plan by surveyor or engineer, to an area of closure of not less than 1 in 5,000.
- (6) Statement of title to the land signed by owner.
- (7) Statement by owner dedicating streets, rights-of-way and any sites for public uses.
- (8) Erosion and sediment control measures. (Vegetation, mulching, structural control, etc. See §22-603).

B. *Cross Sections and Profiles.*

- (1) Final plans and profiles of streets showing grades and horizontal and vertical curves when applicable.
- (2) Cross sections of streets showing the type of construction, the width of right-of-way, width of cartway, location and width of sidewalks, and locations and size of utility mains as applicable.
- (3) Plans and profiles of proposed sanitary and/or stormwater sewers, with grades and pipe sizes indicated, and a plan of any proposed water distribution system showing pipe sizes and location of valves and fire hydrants as applicable.
- (4) Street lighting facilities as applicable.

C. Upon receipt of the applications for subdivision and/or land development the Township will send a copy of such applications to the County planning agency for review and report at county expense.

D. *Other Data.* Such other documentation as may be required in the enforcement of these regulations to include, but not be limited to:

- (1) Approvals and/or review comment of the Department of Environmental Protection. [Ord. 8.5.2008]
- (2) Recommendations and comment by Soil Conservation Service.
- (3) Evidence of PennDOT review when applicable.
- (4) Public utility review when applicable.

E. Requirement of improvements or guarantee thereof:

- (1) See §22-704 hereof.

(2) Certification by the enforcement officer that improvements have been installed or that a bond has been secured in accordance with §22-704.

F. At this point in time and activity the final plan may be considered as officially submitted provided that the Planning Commission provides to the applicant a letter indicating that the final plans and documents are substantially in conformance to the requirements of this Chapter in respect to preliminary plans. The Board of Supervisors has a maximum of 90 days to take action on this preliminary filing. The 90-day period may be extended upon written agreement by and between the applicant and the Board of Supervisors. [Ord. 8.5.2008]

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

#### **§22-405. Filing of Plans.**

1. When filing plans for approval, whether preliminary or final for subdivision and/or land development, the applicant shall submit 6 copies of all plans and other information to the Planning Commission, and additional copies as required to satisfy the need as set forth under §22-404.D hereof.

2. At the time of filing, the applicant shall pay to the Township fees to be used to defray the cost of processing such plans, in an amount as established from time to time by resolution of the Board of Supervisors. [Ord. 8.5.2008]

3. All plans shall be submitted to the Planning Commission at least 5 days prior to the regular meeting of the Planning Commission at which it is desired to seek review thereof. The Planning Commission shall review the plans. After preliminary review, the Planning Commission may require modification to the plan and, subject to such modification, may concur with the plan. This is the same general point in time reflected under §22-403.F hereof. The Planning Commission shall submit the preliminary plan to the Board of Supervisors for review, comment and action.

4. After final plan review and concurrence, the Planning Commission shall submit the plan and supporting documentation together with its recommendations to the Board of Supervisors. This point in time reflects the same time of §22-404.F hereof.

5. *Action by Board of Supervisors.* All applications for approval of a plan (preliminary or final) shall be acted upon by the Board of Supervisors which shall render its decision and communicate it to the applicant not later than 85 days after such application is filed.

A. The decision of the Board of Supervisors shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 5 days following the decision.

B. When the plan is not approved as filed the decision shall specify the defects found and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.

C. Failure of the Board of Supervisors to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the plan as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case failure to meet the extended time or change in manner of presentation of communication shall have like effects.

D. From the time an application for approval of a plan, whether preliminary or final, is duly filed as provided in this Chapter, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Refer to Article V, §508(4) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10508(4) for the effect of ordinance amendments on subdivision plans.

(*Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008*)

#### **§22-406. Minor Subdivisions.**

In, the case of a “minor subdivision,” the subdivider may comply with the following procedures in lieu of submission of a preliminary and final plan:

A. Meet with the Planning Commission and discuss the proposed development as set forth under §22-402.C hereof. Preliminary plans and reviews may be bypassed and complete plans prepared at the direction of the Planning Commission. The term “complete plan” for a minor subdivision shall be a final plan for all purposes.

B. *Submission.* The subdivider shall submit six copies of complete plan of any minor subdivision to the Planning Commission and the Township Supervisors. Said plan shall outline the subdivider’s proposals in sufficient detail to permit a determination that the proposed subdivision conforms with the intent and purpose of this Chapter, including the responsibilities as set forth under §22-404 hereof.

C. Engineering services may not be required for all minor subdivisions, particularly for those reflecting one or two lots. Nevertheless, if in the opinion of the Planning Commission or Township Supervisors there is question regarding the validity of lot description and/or location in respect to recording, engineering services could be required.

D. *Fees.* At the time of filing a complete plan of a minor subdivision, the applicant shall pay to the Township a fee in an amount as established from time to time by resolution of the Board of Supervisors, plus any additional costs incurred in processing plans. [*Ord. 8.5.2008*]

E. *Review and Approval.* Upon a determination by the Planning Commission that the proposed subdivision is in accordance with this Chapter, the subdivider shall be advised of the concurrence of the Planning Commission, or of such changes as may be required, and requested to submit six copies of the plan.

F. The Planning Commission shall submit the complete plan to the Board of Supervisors for action as set forth in §22-405.E hereof.

(*Ord. 74-2, 7/2/1974; as amended by Ord. 76-1, 7/19/1976; and by Ord. 8.5.2008, 8/5/2008*)

#### **§22-407. Fees.**

1. Upon the filing of a subdivision or land development plan the applicant shall pay a fee as established by the Supervisors of Hepburn Township by resolution from

time to time adopted. [*Ord. 8.5.2008*]

2. In addition thereto, the applicant shall pay all review fees which may include, but are not necessarily limited to, reasonable and necessary charges incurred by Hepburn Township or any of its officers or agencies in having the subdivision plans reviewed and report thereon by professional consultants or engineers to the Township or any of its agencies or officers, in order to determine whether or not to approve the same. The amount of such review fees shall be those ordinary and customary charges incurred by Hepburn Township for those reviewing the plans, including its Engineer or other consultants, which shall be not in excess of those charged for similar service in the community and in any event shall not exceed the rate or cost charged by the reviewer, the Engineer or consultant to Hepburn Township when such fees are not reimbursed or otherwise imposed upon the applicants.

3. In the event the applicant disputes the amount of any such review fees, the applicant shall, within 10 days of the billing date, notify the Secretary of Hepburn Township that such fees are disputed, in which case the Township shall not delay or disapprove a subdivision or land development application but shall follow the procedures for dispute resolution as set forth under §22-704, relating to disputes over financial security.

4. In addition thereto, the applicant shall pay a fee equal to the cost of giving public notice and legal advertising of any public hearing that is necessary to approve the application for land development or subdivision and unless the appearance of a court stenographer at said hearing is waived by the applicant shall also pay prior to the conduct of the hearing one-half of the appearance fee of the stenographer. The applicant, in case of such public hearing, shall cause to be deposited a sum in an amount as established from time to time by resolution of the Board of Supervisors with the Township prior to advertising of the hearing in order to guarantee the payment of the aforesaid hearing costs; provided that the applicant shall pay any excess of such costs over and above the deposit and shall be refunded any amount less than the deposit incurred for such hearing costs. [*Ord. 8.5.2008*]

(*Ord. 74-2, 7/2/1974; as added by Ord. 1990-2, 11/6/1990; as amended by Ord. 8.5.2008, 8/5/2008*)



**Part 5****Design Standards****§22-501. General Standards.**

1. When the developer proposes to provide water to more than one dwelling unit for a service fee or as a part of a lease; and/or when a sewerage system and a sewage treatment facility is planned to serve two or more units, the following procedures should be followed:

A. Where no public water supply is available to the development, the Board of Supervisors shall require the developer to obtain from the Pennsylvania Department of Environmental Protection certificates of approval as to the quality and adequacy of the water supply proposed and approval of the type and construction methods to be employed in the installation. [*Ord. 8.5.2008*]

B. Where the development is inaccessible to sanitary sewers, the Board of Supervisors shall require the developer to obtain the Pennsylvania Department of Environmental Protection, certificates of approval of the proposed sewage disposal facilities. [*Ord. 8.5.2008*]

C. Improvement construction requirements will be completed under Township specifications referred to or attached.

2. All lot dimensions and areas and all building lines, yard widths, depths, set backs and similar regulations shall conform to the regulations of the Township Zoning Ordinance [Chapter 27].

(*Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008*)

**§22-502. Streets.**

All streets which by design or intent are to become a part of the official map and/or the Township circulation system by legal action of the Board of Supervisors, shall conform to the following design standards and be planned in a manner acceptable to the Planning Commission:

A. Where a subdivision abuts or contains an existing or proposed arterial street or a railroad right-of-way, access thereto shall be limited to a minimum and such access shall be determined with due regard for sight distance, distance between intersections, approach grades and requirements for future grade separations.

B. Marginal access and reverse frontage streets paralleling limited access and/or arterial streets shall be required. Access to limited access or arterial streets shall not be more frequent than one in 500 feet.

C. Street jogs with centerline offsets of less than 125 feet shall be avoided.

D. Arterial and collector streets shall be improved in accordance with standards and specifications of the Pennsylvania Department of Transportation.

E. When a street line changes direction more than 10 degrees, it shall be connected with a curve with a radius sufficient to assure adequate sight distance.

F. Streets shall be laid out to intersect as nearly as possible at right angles,

and no street shall intersect any other street at less than 60 degrees.

G. Collector and arterial streets shall not intersect at intervals of less than 800 feet.

H. Alleys shall be prohibited.

I. All streets shall have a minimum total width of 50 feet, a minimum cartway of 20 feet, and a minimum berm/shoulder of 8 feet on each side of the cartway. [Ord. 93-1]

(1) *Permanent Private Streets*. Shall have a width not less than 36 feet nor greater than 50 feet, unless a greater width is agreed to by the land developer and the Township; the width within such guidelines shall be determined by the Supervisors, based upon the recommendation of the Planning Commission and taking into consideration the requirements for similar public streets as provided in this Chapter. [Ord. 1985-1]

J. Dead-end streets (cul-de-sacs) designed to be so permanently, shall be provided with a turn around having an outside cartway diameter of at least 80 feet and a property line diameter of at least 100 feet. Cul-de-sacs planned in excess of 500 feet in length shall be subject to the review and approval of the Board of Supervisors. Cul-de-sacs shall not have less than 50-foot right-of-way nor less the 24-foot cartway. Approval of additional length shall be granted only when deemed to the best interests of the citizens and the Township and when no jeopardy in regard to public protection is found.

K. The grade of any street shall not be less than ½ of 1 percent. The grade of any street shall not exceed 10 percent, unless approved by the Board of Supervisors. The Board of Supervisors shall have the authority to give approval to a street grade not in excess of 20 percent.

(1) *Approval of Streets with Grades in Excess of 10 Percent by the Board of Supervisors*. The following requirements and standards shall apply to the approval of any street or development with a street having a grade in excess of 10 percent, for any portion thereof:

(a) Approval by the Board of Supervisors shall be upon such limitations and conditions as they determine to be appropriate to maintain the safe condition, assure safe travel upon and provide appropriate drainage from the street taking into consideration its intended or potential use.

(b) The Board of Supervisors may require submission of detailed plans showing grades, road cross sections, profiles and construction detail, and such engineering studies it deems appropriate to enable the Board of Supervisors to have sufficient information to determine the appropriate design and construction requirements for said street.

(c) The Board of Supervisors may require such streets to have: paved surfaces, appropriate subsurface construction, curbing, pavement of drainage improvements and storm sewers.

(d) The Board of Supervisors may require the posting of appropriate guarantees for performance and completion of such street design and construction as provided under §22-704 of this Chapter.

(e) The Board of Supervisors may limit the number of lots to be served by any street having a grade in excess of 15 percent and may impose as a requirement of approval that appropriate restrictions on further development shall be imposed upon all lot owners in the development preventing said lots from being further developed or subdivided.

(f) The Board of Supervisors shall require the Township Engineer to review the plans relating to the street design and construction for any street having a grade in excess of 15 percent. The Township Engineer may be an engineer especially employed by the Township for this purpose, or the engineer generally employed by the Township. The Township Engineer shall review the plans as submitted and make a report with his comments and recommendations to the Board of Supervisors as to the appropriateness as to the construction design of the street in order to maintain the standards herein set forth and the other requirements of this Chapter and the Zoning Ordinance [Chapter 27]. The cost of such Engineer's review and report shall be paid by the developer as an additional subdivision filing fee.

(g) In determining the limitations and conditions to be placed upon the street development, the supervisors shall take into consideration the anticipated traffic load, the safety of the traveling public, the drainage of surface water from the street, the extent of the development served by the street and its effect upon other existing developments in the Township, the manner in which the development is served by utilities, the ability of fire companies, ambulances and other emergency vehicles and service vehicles to traverse the street in order to provide necessary services to the lots intended to be served thereby.

(2) Minor subdivisions may be approved by the Planning Commission and Board of Supervisors with streets that are intended to remain permanently as private streets, that is not to be ever dedicated or accepted by the Township upon the following conditions:

(a) Such permanent private streets shall meet all the requirements for streets, as set forth in this Chapter.

(b) The developer or the Planning Commission may recommend and the Board of Supervisors may require, that, the number of lots to be served by a permanent private street be limited and if approval of the subdivision plan is conditioned upon such limitation, the agreement with the Township and the declaration of restrictive covenants hereinafter referred to shall contain appropriate provisions for such limitation.

(c) The approval of a minor subdivision with permanent private streets, shall require the developer to submit as part of the subdivision application, a proposed declaration of restrictive covenants and a form of agreement to be signed by the lot owners and the developer to provide for the permanent maintenance of the streets. The declaration of restrictive covenants shall provide for:

1) A prohibition providing that such private streets shall not ever be offered for dedication and that the same shall remain private

streets permanently and shall not be dedicated to the public or offered to the Township for acceptance as public streets.

2) That the owners or occupiers of lots in said subdivision shall waive the right to petition or otherwise request that said streets be accepted or maintained by the Township as public streets.

3) The restrictions shall be permanent for the benefit of the Township. The Township shall have the sole authority to voluntarily consent to a modification in the future, which consent shall not take place until the roads and streets are improved to an extent satisfactory to the Township and the Township voluntarily consents or agrees that it would be appropriate to allow further subdivision or other modification of the restrictions including acceptance of the street as a public street.

4) If the Board of Supervisors determines that the number of lots to be served by said streets are to be limited, the developers agreement and instruments of conveyance, deed or lease, shall provide appropriate notice thereof and agreement to such restriction; they shall further provide that no further subdivision of the lots of said plan shall occur, unless consented to by the Township.

5) The declaration of restrictive covenants shall contain a requirement that an agreement for maintenance of the right-of-way shall be executed, which agreement shall be binding upon the developer and all lot owners.

6) The declaration of restrictive covenants shall contain such other provisions that shall be reasonably required by the Township Supervisors upon recommendation of the Planning Commission to assure that said streets remain permanently as private streets and to assure their appropriate maintenance by the subdivider or lot owners benefitted by the same.

(d) The declaration of restrictive covenants shall be recorded simultaneously with the recording of the approved subdivision plan.

(e) As a condition of approval of the subdivision plan, the developers shall sign an agreement with the Township in such form as approved by the Township from time to time which agreement shall require that:

1) The said declaration of restrictive covenants be recorded simultaneously with the recording of the subdivision plan.

2) A notation of reference to the declaration of restrictive covenants on the subdivision plan.

3) Identification on the plan that the street and right-of-way is designated as a permanent private street.

4) That the subdivider or lot owner(s) and not Hepburn Township are responsible for improvement and maintenance of the street.

5) That the lot owners are required to sign a right-of-way maintenance agreement as approved by the Township.

6) That the Township shall be indemnified and held harmless by the developer on account of any and all matters arising out of the use, maintenance, development of said private streets and/or from any act which would attempt to make said private street(s) a public street(s).

7) That the signs required hereunder will be posted.

8) That all other requirements imposed will be adhered to.

(f) The developer in accordance with said agreement shall provide a reference on each deed, lease, conveyance or other instrument creating any interest in said subdivision to the declaration of restrictive covenants and provide that as a condition of the conveyance that the acceptance of the deed, lease, instrument of conveyance or the acceptance of any interest in the lands of the subdivision is an agreement by the grantee, lessee, person or entity receiving such interest that they, their successors, heirs or assigns, agree to be bound by such restrictions.

(g) The developer and/or those responsible for the maintenance and upkeep of the permanent private street shall cause a sign or signs to be posted at such locations as determined by the Board of Supervisors which signs shall state that such streets are permanent private streets. The sign(s) shall be of such size, design and location as will readily advise those using the street of its permanent private nature. [*Ord. 1985-1*]

L. Where the grade of any street at the approach to an intersection exceeds 4 percent, a leveling area shall be provided having not greater than 4 percent grade for a distance of 25 feet measured from the nearest right-of-way line of the intersecting street.

M. At intersections cartway or curb radii shall not be less than 20 feet.

N. Partial streets shall not be permitted. Suitable access to adjacent unsubdivided land shall be provided when such land does not abut a public street and may be landlocked by the subdivision under consideration.

O. Multiple intersections involving junction of more than two roads shall be prohibited.

P. Horizontal and vertical street alignment:

(1) The minimum radius at the centerline for horizontal curves shall be 150 feet for local streets.

(2) Vertical curves shall be used in grade differentials exceeding an algebraic difference of 2½ percent, and shall be designed for maximum visibility.

Q. Any street intended for acceptance by the Township as a public road shall have, at a minimum, the specifications found herein as well as those of §22-704 or as otherwise required. The form is as follows: [*Ord. 8.5.2008*]

(*Ord. 74-2, 7/2/1974; as amended by Ord. 1985-1, 9/3/1985; by Ord. 93-1, 3/2/1993, §1; and by Ord. 8.5.2008, 8/5/2008*)

### **§22-503. Lot Access and Easements.**

1. The subdividing of the land shall be such that each lot is provided with access to a public or private street. Such access may either be by direct access or by private access drive. Direct access shall be deemed to be applicable to all lots which abut or adjoin a public or private street with a frontage thereon of at least 50 feet, as measured at the street right-of-way line. Otherwise, access shall be by a private access drive. Private access drives shall serve no more than one lot and shall be at least 20 feet in width. All access to a public or private street, and the driveways used to provide such access, whether the same is deemed to provide direct access or by private access drive, shall conform to the requirements of the Zoning Ordinance [Chapter 27] and other Hepburn Township ordinances as applicable to said lot or lots. [*Ord. 1985-1*]

2. Easements across lots, centered on rear or side lot lines, or where necessary for lot access, utilities, water course, drainage way, channel or stream shall be not less than 20 feet wide.

(*Ord. 74-2, 7/2/1974; as amended by Ord. 1985-1, 9/3/1985*)

**§22-504. Blocks.**

1. Block lengths shall not exceed 1,600 feet.

2. In cases where the block length exceeds 1,200 feet or where deemed essential to provide pedestrian circulation to schools, playgrounds, shopping centers and other community facilities, a cross walk shall be provided with a pavement width of not less than 8 feet.

(*Ord. 74-2, 7/2/1974*)

**§22-505. Public Grounds and Open Spaces.**

1. Where a proposed park, playground, school, easement or other public use shown in the comprehensive plan or in the opinion of the Planning Commission is necessary, the Board of Supervisors may require the reservation of such area within the subdivision or land development in a reasonable manner.

2. In subdivisions of 20 or more lots, the Planning Commission may require that an area, or areas, of land be set aside and preserved for open space and recreation. The area to be considered should not be less than 2 percent of the total area of the site or about 870 square feet for each acre of land in the development.

(*Ord. 74-2, 7/2/1974*)

**§22-506. Storm Drainage.**

1. Lots shall be laid out and graded to provide positive drainage away from new and existing buildings.

2. Storm sewers, culverts, and related installations shall be provided:

A. To permit unimpeded flow of natural water courses.

B. To ensure adequate drainage of streets.

C. To intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained.

3. Special consideration shall be given to avoiding problems which could arise from concentration of stormwater runoff over adjacent properties.

4. The developer shall submit runoff data upon which the size of conduits, culverts, and swales for proposed stormwater control has been based.

(Ord. 74-2, 7/2/1974)

**§22-507. Sanitary Sewers and Public Water.**

1. *Sanitary Sewers.* The developer shall plan and construct sanitary sewers with provisions for connection to each lot in the proposed subdivision in all cases where public sewers are planned or available within 1,000 feet of the development.

2. *Public Water.* The developer shall plan and install water mains with provisions for connection to each lot in the proposed subdivision in all cases where a public water main is available or exists within 1,000 feet of the proposed subdivision. The developer shall also place fire hydrants along said water mains at locations approved by the Township Engineer, and in keeping with fire protection standards.

(Ord. 74-2, 7/2/1974)

**§22-508. Utility Location.**

Whenever the development plan involves five or more lots, utilities shall be installed underground.

(Ord. 74-2, 7/2/1974)

**§22-509. Erosion and Sedimentation Control.**

Effective soil conservation measures shall be planned and implemented in accordance with the Rules and Regulations relating to erosion control (25 Pa.Code, Chapter 102, or as hereafter amended) of the Pennsylvania Department of Environmental Protection.

A. *Standards.*

(1) No changes shall be made in the contour of the land; no grading, excavating, removal or destruction of the topsoil, trees or other vegetative cover of the land shall be commenced until an erosion and sedimentation control plan has been processed through DEP and/or SCS, and reviewed by the Township Planning Commission; or a determination is made by the Commission that such plans are on file with and have been approved by the Department of Environmental Protection and/or the Soil Conservation Service.

(2) No subdivision or land development plan shall be approved unless there has been a plan approved that provides for minimizing erosion and sedimentation consistent with 25 Pa.Code, Chapter 102, Rules and Regulations of the Department of Environmental Protection, or as hereafter amended.

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

**§22-510. Grading for Drainage.**

In order to provide more suitable building sites, the following requirements shall be met:

A. All lots, tracts, or parcels shall be graded to provide proper drainage from buildings without ponding, and all land within a development shall be graded to drain surface water without ponding, except where other arrangements are

approved by the Board of Supervisors.

B. All drainage provisions shall be adequate to handle the surface runoff and carry it to the nearest curbed street, storm drain, or natural water course. Where drainage swales are used they shall be sodded or planted and of adequate slope, shape and size.

C. Concentration of surface water runoff shall only be permitted in natural watercourses or swales leading thereto.

D. *Excavations and Fills.*

(1) Cut and fill slopes shall not be steeper than 2:1 unless stabilized by a retaining wall or cribbing except as approved by the Board of Supervisors when handled under special conditions.

(2) Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.

(3) Cut and fills shall not endanger adjoining property.

(4) Fill shall be placed and compacted to minimize sliding or erosion.

(5) Fills shall not encroach on natural watercourses or constructed channels.

(6) Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding.

(7) Grading will not be done in such a way so as to divert water onto the property of another landowner without the expressed consent of the Board of Supervisors and the landowner.

(8) Necessary measures for dust control will be exercised.

(9) Grading equipment will not be allowed to cross live streams. Provision will be made for the installation of culverts or bridges.

(10) Where any excavation or grading is proposed or where any existing trees, shrubs or other vegetative cover will be removed, the subdivider shall consult the County Soil and Water Conservation District Office concerning plans for erosion and sediment control and to also obtain a report on the soil characteristics of the site so that a determination can be made as to the type and degree of development the site may accommodate.

(Ord. 74-2, 7/2/1974)

**§22-511. Responsibilities.**

1. Whenever sedimentation results from stripping vegetation, regrading or other activity, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

2. Maintenance of all drainage facilities and watercourses within any subdivision or land development is the responsibility of the developer until accepted by the Township or other official agency, which accepts responsibility thereafter.

3. It is the responsibility of any person, corporation, or other entity doing any act on or cross a communal stream, watercourse or swale or upon the floodplain or right-of-way thereof, to maintain said facility in its present state during all activity and to

return it to its original condition after activity is completed.

4. Maintenance of drainage facilities or watercourses originating and remaining on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

5. No entity shall undertake any activity affecting any communal stream or watercourse without having obtained approval from the Township or Department of Environmental Protection or both. [*Ord. 8.5.2008*]

6. Where a subdivision or development is traversed by a watercourse, there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse, and of such width as will be adequate to preserve natural drainage.

7. Any person, corporation, or other entity making any surface changes shall be required to:

A. Collect on-site surface runoff and dispose of it into the common natural watercourse of the drainage area.

B. Handle all runoff through the development by designing to adequately handle storm runoff from any developed area.

C. Pay a proportionate share of the total cost of off-site improvements to the common natural watercourse, based on a fully developed drainage area.

D. Provide and install all drainage and erosion control improvements (temporary and permanent) as required by the erosion and sediment control plan.

(*Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008*)



**Part 6****Improvement and Construction Requirements****§22-601. Monuments and Markers.**

1. *Placement; Marking.* Monuments and markers must so be placed that the scored or marked point coincides exactly with the point of intersection of the lines being monumented. The top of the monument or marker must be level with the surface of the surrounding ground. Concrete monuments shall be marked on top with a copper or brass dowel. Cut stone monuments shall have a point marking.

2. Monuments must be set at:

A. The intersections of major street right-of-way lines.

B. The intersections of lines forming angles in the boundaries of the subdivision.

C. Such intermediate points as may be required by the Board of Supervisors.

3. *Location of Lot Markers.* Lot markers must be set at all corners, except those monumented, by the time the lot is offered for sale.

4. *Removal.* Any monuments or markers that are removed shall be replaced by a registered engineer or surveyor at the expense of the person removing them.

5. Monuments and markers shall be as follows:

A. Monuments shall be 6 inches square or 4 inches in diameter and shall be 30 inches long. Monuments shall be made of concrete, stone or by setting a 4-inch cast iron steel pipe filled with concrete.

B. Markers shall be  $\frac{3}{4}$  of an inch square or  $\frac{3}{4}$  of an inch in diameter and 15 inches long. Markers shall be made of iron pipes or iron or steel bars.

6. In minor subdivisions and at the discretion of the Board of Supervisors, markers may be substituted for monuments.

(Ord. 74-2, 7/2/1974)

**§22-602. Utility and Street Improvements.**

1. Utility and street improvements shall be provided in each new or enlarged subdivision in accordance with the standards and requirements as set forth in the Township resolution establishing improvement and construction standards and specifications.

2. *Street Trees.* One and one-half inch caliper - 40 to 60 feet apart. Street trees shall be planted between the sidewalk and the building line. Street trees may be eliminated where, in the opinion of the Board of Supervisors, sufficient trees exist and will be permitted to remain. In no circumstances will any of the following trees be permitted either to remain or to be planted as street trees:

A. Poplars; all varieties.

B. Willows; all varieties.

C. White or silver maple (*Acer Saccharinum*).

D. Aspen; all varieties.

E. Common black locust.

3. The Board of Supervisors reserves the right to increase, change, alter or substitute materials, manner and specifications for utility and street improvements, provided that such changes are deemed to serve in the public interest.

*(Ord. 74-2, 7/2/1974)*

**§22-603. Erosion and Sedimentation Compliance (See §22-501).**

1. The Board of Supervisors in considering all preliminary and/or final plans of subdivision and land development shall condition its approval upon the execution of erosion and sedimentation control measures as contained in or required by §22-511 hereof.

2. The erosion and sedimentation control plan will be incorporated into the agreement and bond requirements as required under §22-704 hereof. Said plan shall be a part of the final plans of subdivision and land development.

3. At the time of application for a building permit, a review shall be conducted by the Township Engineer to insure conformance with the plan as approved. During construction consultative technical assistance will be furnished, if requested, by the Township Engineer and the County Soil and Water Conservation District. The Township Engineer shall inspect the development site and enforce compliance with the approved plans.

*(Ord. 74-2, 7/2/1974)*

**Part 7****Conditions of Acceptance****§22-701. Development Control.**

No subdivision or land development shall be made except in strict accordance with the provisions of this Chapter.

(*Ord. 74-2, 7/2/1974*)

**§22-702. Recording.**

Within 90 days after the date of approval, the final plan shall be recorded in the office of the Recorder of Deeds of the County. The developer shall furnish the Board of Supervisors a Recorder's certificate that said plan is properly recorded. The requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, shall govern the action of the developer in the recording of documents.

A. After the subdivision or land development plan is officially recorded, the streets, public grounds, and other public areas shown thereon shall be considered a part of the official map or circulation of the Township.

B. Streets, public grounds, easements and other public improvements may be offered for dedication to the Township by formal notation on the plan or the owner may note that any such improvements have not been offered for dedication to the Township. All streets approved as permanent private streets shall not be offered for dedication and the developer shall make a notation on the plan of such fact in accordance with the other provisions of this Chapter. [*Ord. 1985-1*]

C. Streets and public grounds shown on a recorded subdivision plan shall be deemed private until offered for dedication to the Township and accepted by ordinance or resolution; or until condemned for use by the public.

D. The recording of the plan shall not constitute grounds for assessment increases until such time as lots are sold or structures are installed on the lots included within the subject plan.

(*Ord. 74-2, 7/2/1974; as amended by Ord. 1985-1, 9/3/1985*)

**§22-703. Sale of Lots; Issuance of Building Permit; or, Erection of Building.**

No lot in a subdivision or land development may be sold, no permit to erect, alter or repair any building upon land in a subdivision or land development, unless and until a plan of such subdivision or land development has been approved and recorded, and improvements constructed or guaranteed as herein provided.

(*Ord. 74-2, 7/2/1974*)

**§22-704. General Provisions.**

1. The Board of Supervisors shall approve or disapprove applications based upon the standards and criteria set forth in this Chapter and in the Hepburn Township Zoning Ordinance [Chapter 27].

2. *Modifications.*

A. The Board of Supervisors may grant a modification of the requirements of one or more provisions of this Chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.

B. 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.

C. The request for modifications may be referred to the planning agency for advisory comments.

D. The Board of Supervisors or the planning agency, as the case may be, shall keep a written record of all action on all requests for modifications. [*Ord. 1989-3*]

3. No right-of-way or related improvement shall be accepted by the Township for maintenance unless opened, laid out, graded and improved in strict accordance with standards and specifications of the Township and/or this Chapter.

4. *Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval and after Acceptance.*

A. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition and as otherwise required by the standards of this Chapter and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this Chapter have been installed in accordance with such Chapter and the conditions imposed for approval of the plat. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to paragraph .I, the developer shall provide for the deposit with the Township of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, storm-water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.

B. When requested by the developer, in order to facilitate financing, the Board of Supervisors or the planning agency, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Board of Supervisors; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

C. Without limitation as to other types of financial security which the Township may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit

and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this Section.

D. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

E. Such bond or other financial security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

F. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110 percent of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the ninetieth day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in order to assure that the financial security equals said 110 percent. Any additional security shall be posted by the developer in accordance with this subsection .4.

G. 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 Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township 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 Township 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 Township and the applicant or developer.

H. If the party posting the financial security requires more than 1 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 percent for each 1-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110 percent of the cost of completing the required improvements as reestablished on or about the expiration of the preceding 1-year period by using the above bidding procedure.

I. In the case where development is projected over a period of years, the Board of Supervisors or the planning agency 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.

J. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors 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 Board of Supervisors, and the Board of Supervisors shall have 45 days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Board of Supervisors that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the Board of Supervisors shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed or, if the Board of Supervisors fails to act within said 45-day period, the Board of Supervisors shall be deemed to have approved the release of funds as requested. The Board of Supervisors may, prior to final release at the time of completion and certification by its Engineer, require retention of 10 percent of the estimated cost of the aforesaid improvements.

K. Where the Board of Supervisors accepts dedication of all or some of the required improvements following completion, regardless as to whether or not financial security was previously required, in lieu of completion under this Section, the Board of Supervisors may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this Section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15 percent of the actual cost of installation of said improvements.

L. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Section.

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

5. *Release from Improvement Bond.*

A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Township Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Township Board of Supervisors shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the aforesaid improvements. The Township Engineer shall, thereupon, file a report, in writing, with the Township Board of Supervisors, 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 Township Engineer of the aforesaid authorization from the Board of Supervisors; 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 Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

B. The Township Board of Supervisors shall notify the developer, within 15 days of receipt of the Engineer's report, in writing by certified or registered mail of the action of said Township Board of Supervisors with relation thereto.

C. If the Township Board of Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

D. If any portion of the said improvements shall not be approved or shall be rejected by the Township Board of Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.

E. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the Township Board of Supervisors or the Township Engineer.

F. Where herein reference is made to the Township Engineer the engineer shall be a professional engineer licensed as such in the Commonwealth of Pennsylvania and employed by the Township or engaged as a consultant thereto.

G. The Township may prescribe that the applicant shall reimburse the Township for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.

(1) In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within 10 working days of the date of billing, notify the Township that such expenses are disputed as unreasonable or unnecessary, in which case the Township shall not delay or disapprove a subdivision or land development application or any

approval or permit related to development due to the applicant's request over disputed engineer expenses.

(2) If, within 20 days from the date of billing, the Township and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and Township shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

(3) The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

(4) In the event that the Township and applicant cannot agree on the professional engineer to be, appointed within 20 days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the Township is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding 5 years.

(5) The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay one-half of the fee of the appointed professional engineer.

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

(Ord. 74-2, 7/2/1974; as amended by Ord. 1989-3, 8/3/1989)

**Part 8****Mobile Home Parks****§22-801. Purpose.**

Establishing minimum standards for mobile home parks, establishing requirements for the design, construction, alteration and maintenance of mobile home parks and related utilities and facilities.

*(Ord. 74-2, 7/2/1974)*

**§22-802. Permits and License.**

1. It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of the Township unless he holds a valid permit issued by the Department of Environmental Protection in the name of such person, and also a license issued by the Township hereunder.

2. All applications when necessary for review and approvals shall be made by the owner to all appropriate agencies and/or governmental entities.

*(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)*

**§22-803. Submission of Plans and Specifications to the Township.**

1. Any person, firm or corporation, from and after the passage of this Chapter, who proposes to operate or maintain any premises, area or tract of piece of land for use as a mobile home park shall first submit to the Township a plan for the layout and design thereof, including a legal description and map clearly setting forth the following information:

A. Name and address of applicant.

B. Interest of the applicant in the mobile home park.

C. Location and legal description of the mobile home park.

D. A sketch plan shall be presented to the Planning Commission for review and comment prior to preparing any final plans to accompany an application.

(1) The sketch plan may be freehand superimposed on a plot plan of the property to be used for the mobile home park. The sketch shall indicate general topography, locations for mobile homes or groups thereof; accessory buildings; accesses, circulation and parking areas.

E. Complete engineering plans and specifications of the proposed park showing:

(1) See §§22-403 and 22-404.

2. Filing of plans for a mobile home park shall follow the same procedure as described by §22-405 hereof.

*(Ord. 74-2, 7/2/1974)*

**§22-804. Fees.**

A fee in an amount as established from time to time by resolution of the Board of

Supervisors for each mobile home lot shall accompany all applications for the approval of all mobile home park plans. Any additional costs incurred for engineering and professional services shall be paid by the applicant.

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

**§22-805. Required Separation Between Mobile Homes.**

Mobile homes shall be separated from each other and from other buildings and structures by at least 20 feet; provided, that mobile homes placed end to end may have a clearance of 15 feet where opposing rear walls are staggered.

(Ord. 74-2, 7/2/1974)

**§22-806. Required Recreation Areas.**

Where a proposed park, playground, school, easement or other public use shown in the comprehensive plan or in the opinion of the Planning Commission is necessary, the Board of Supervisors may require the reservation of such area within the mobile home park or land development in a reasonable manner. Such area should in total approximate 6 percent of the mobile home park area.

(Ord. 74-2, 7/2/1974)

**§22-807. Required Setbacks, Buffer Strips and Screening.**

1. All mobile homes shall be located at least 25 feet from any property boundary line abutting upon a public street or highway, and at least 15 feet from other park property boundary lines.

2. There shall be a minimum distance of 15 feet between an individual mobile home and (A) adjoining pavement of a park street, (B) adjoining recreation area, (C) parking areas, or (D) other common areas.

3. All mobile home parks located adjacent to industrial or commercial land use shall be provided with screening such as fenced, or natural growth along the property boundary line separating the park and such adjacent nonresidential uses.

4. In the event that mobile homes are located in reference to municipal roads or rights-of-way intended to be dedicated as public roads, the following setbacks shall be required:

A. *Front Yard:*

(1) *Arterial Streets.* 50 feet from right-of-way line.

(2) *Collector Street.* 30 feet from right-of-way line.

(3) *Minor Streets.* 25 feet from right-of-way line.

(Ord. 74-2, 7/2/1974)

**§22-808. Park Street System.**

1. *General Requirements.* All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography. Access to mobile home lots shall not be permitted from access roads, State roads, or major Township roads.

2. *Access.* Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have minimum road pavement width of 26 feet to be 20 feet stabilized cartway 3 feet shoulders each side, within which parking shall be prohibited. Note that the entrance road shall not provide for access to mobile home lots.

3. *Internal Streets.* Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case, shall meet the following minimum requirements:

A. Where parking is permitted on both sides, a minimum width of 36 feet will be required.

B. A minimum road pavement width of 27 feet will be required where parking is limited to one side.

C. Dead end streets shall be provided at the closed end with a turnaround having an outside roadway radius of at least 60 feet.

4. *Required Illumination of Park Street Systems.* All parks shall be furnished with lighting units so spaced and equipped with luminaires placed at such mounting heights as will provide for the safe movement of pedestrians and vehicles at night.

5. *Street Construction and Design Standards.*

A. *Pavement.* All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. The pavement shall be constructed as set forth under Township standards for circulation roads.

B. *Design Standards.* See §22-501.

(Ord. 74-2, 7/2/1974)

#### **§22-809. Required Off-Street Parking Areas.**

1. Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least 1.5 car spaces for each mobile home lot.

2. Required car parking spaces shall be so located as to provide convenient access to the mobile home but shall not exceed distance of 200 feet from the mobile home that it is intended to service.

3. *Paving.* A smooth, dense, solid and dustfree surface capable of use throughout the year shall be provided.

(Ord. 74-2, 7/2/1974)

#### **§22-810. Mobile Home Stand.**

The area of the mobile home stand shall be improved to provide an adequate foundation for the placement of the mobile home, thereby securing the super structure against uplift, sliding, or rotation.

A. The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.

B. The mobile home stand shall be provided with anchors and tie-downs such

as cast in place concrete “deadmen” eyelets imbedded in concrete foundations or run-ways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.

C. Each mobile home stand shall have a paved patio of at least 190 square feet. The least dimension shall not be less than 8 feet.

(Ord. 74-2, 7/2/1974)

#### **§22-811. Area.**

A mobile home park shall have an average gross area per mobile home lot of not less than 6,000 square feet, exclusive of internal street system.

A. The minimum width of a mobile home lot shall be 40 feet and shall be measured at the setback line.

B. The minimum depth of a mobile home lot shall be 100 feet or at least 40 percent longer than the mobile home to be placed thereon, whichever is the greater.

C. A mobile home park plan may propose clustering of the units in order to provide a common open space of a size to better serve all the residents of the park. In no circumstance however, shall the average area of a mobile home lot be less than 4,000 square feet. In order to approve the “cluster plan” the Planning Commission shall apply the following test: the number of mobile home lots times 4,000, plus the area of common open space in square feet, divided by the number of mobile home lots shall equal at least 6,000 square feet.

(Ord. 74-2, 7/2/1974)

#### **§22-812. Water Supply.**

1. *General Requirements.* An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality, and pressure is available, connection shall be made thereto and its supply used exclusively. When a satisfactory public water and supply is not available, a private water system may be developed and used as approved by the Pennsylvania Department of Environmental Protection.

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

#### **§22-813. Sewage Collection and Disposal.**

1. *General Requirements.* An adequate and safe sewerage system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Such system shall be designed, constructed and maintained in accordance with the regulations of the Pennsylvania Department of Environmental Protection, and all local sanitary sewer regulations.

2. *Sewage Treatment And/or Discharge.* Where the sewer lines of the mobile home park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the Pennsylvania Department of Environmental Protection prior to construction.

(Ord. 74-2, 7/2/1974; as amended by Ord. 8.5.2008, 8/5/2008)

#### **§22-814. Electric, Telephone, and TV Cable Distribution Systems.**

1. *General Requirements.* Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electric power company's specifications regulating such systems.

2. Telephone and TV cable shall be installed and maintained in accordance with the regulations of the appropriate company having jurisdiction.

(Ord. 74-2, 7/2/1974)



**Part 9****Administration****§22-901. Preventive Remedies.**

1. In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

2. A Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this Chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:

A. The owner of record at the time of such violation.

B. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

C. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

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

E. 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 Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

(Ord. 74-2, 7/2/1974)

**§22-902. Enforcement.**

1. *Jurisdiction.* Magisterial district judges shall have initial jurisdiction in proceedings brought under subsection .2. [Ord. 8.5.2008]

2. *Enforcement Remedies.*

A. Any person, partnership or corporation who or which has violated the provisions of this Chapter upon being found liable therefor in a civil enforcement proceeding commenced by a Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. If the

defendant neither pays nor timely appeals the judgment, the Township 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 magisterial district judge 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 magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation, unless the magisterial district judge 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 magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. [*Ord. 8.5.2008*]

B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

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

(*Ord. 74-2, 7/2/1974*; as amended by *Ord. 1989-3, 8/3/1989*; and by *Ord. 8.5.2008, 8/5/2008*)

### **§22-903. Board of Supervisors Authority.**

It shall be the duty of the Board of Supervisors to enforce the provisions of this Chapter. In order to properly carry out this responsibility, the Board of Supervisors can appoint an agent and grant to the duly appointed agent the power and authority to administer and enforce the provisions of this Chapter in their stead. The agent shall be responsible to the Board of Supervisors and shall report periodically to them concerning the administration of this Chapter and such report shall contain all the information necessary to permit the Board of Supervisors to ascertain whether the proposed building, alteration or use is located in an approved final plat (land subdivision plan). No building permit shall be issued until the agent has certified that the site for the proposed building, alteration or use complies with all the provisions of this Chapter and conforms to the site description as indicated on the approved and recorded final plat (subdivision or land development plan).

(*Ord. 74-2, 7/2/1974*)

### **§22-904. Appeals to Court from Subdivision and Land Development Decisions.**

The decisions of the Board of Supervisors or the planning agency with respect to the approval or disapproval of plats may be appealed directly to court in the same manner and within the same time limitations, as is provided for zoning appeals from the decisions or findings of the Zoning Hearing Board by the Pennsylvania Municipali-

ties Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 74-2, 7/2/1974*)

**§22-905. Amendments.**

Amendments to this Chapter shall become effective only after a public hearing held pursuant to public notice in the manner prescribed for enactment of a proposed subdivision and land development ordinance by the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.* In addition, in case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment.

(*Ord. 74-2, 7/2/1974*)



**Part 10****Floodplain Management Regulations****A. General****§22-1001. Purpose.**

The specific purpose of these special provisions is:

A. To regulate the subdivision and development of flood-prone areas in order to promote the general health, welfare, and safety of the community.

B. To require that each subdivision lot in a flood zone area be provided with a safe building site with adequate access; and that public facilities which serve such uses be designed and installed to preclude flood damage at the time of initial construction.

C. To protect individuals from buying lands which are unsuitable for use because of flood hazards by prohibiting the subdivision or development of unprotected flood-prone lands.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1002. Abrogation and Greater Restrictions.**

This Part supersedes any ordinances currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1003. Municipal Liability.**

The grant of a permit or approval of a subdivision or land development plan in the identified flood-prone area(s) shall not constitute a representation, guarantee, or warranty of any kind by the Township or by any official or employee thereof to the practicability or safety of the proposed use, and shall create no liability upon the Township, its officials or employees.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1004. Interpretation and Effect upon Flood Levels.**

In interpreting and applying this Chapter in all situations where the effects upon the 100-year flood or 100-year flood level are to be considered and where prohibitions against raising the level of the 100-year flood or prohibitions against lowering the floor carrying capacity of any stream or watercourse are considered, such effects, alterations or changes raising of levels or lowering of flood carrying capacity shall be interpreted to mean such an effect that is measurable or demonstrable and shall not include technical changes, theoretical increases or alterations or other matters that in the opinion of the determining body in considering all of the evidence presented to them, show no demonstrable effect upon flood levels.

(*Ord. 74-2, 7/2/1974*)



**B. Application Procedures and Plat Requirements for Flood Hazard Areas****§22-1011. Preliminary Plan Requirements.**

In addition to the requirements of other Sections of this Chapter, the following information shall be required where a subdivision or development is proposed in a flood hazard area as part of the preliminary plan:

A. A map showing the location of the proposed subdivision and/or land development with respect to the Township's flood-prone areas including information on, but not limited to, boundaries of flood-prone areas, proposed lots and sites, fills, flood or erosion protection facilities, and areas subject to special deed restrictions.

B. Where the subdivision and/or land development lies partially or completely in a flood-prone area or where the subdivision or land development borders on a flood-prone area, the preliminary plan map shall include detailed information giving the location and elevation of proposed roads, public utilities, and building sites. All such maps shall also show contours at intervals of 2 or 5 feet depending upon the slope of the land and shall identify accurately the boundaries and elevations of the flood-prone areas, utilizing the flood insurance study and maps prepared for Hepburn Township by the Federal Emergency Management Agency, dated August 17, 1981.

*(Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982)*

**§22-1012. Final Plan Requirements.**

In addition to the requirements of the other Sections of this Chapter, the following information shall be required as part of the final plan where a subdivision or development is proposed in a flood hazard area:

A. All information required for the submission of the preliminary plan incorporating any changes requested by the Hepburn Township Supervisors.

B. A map showing the exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed in flood-prone areas. All such maps shall show contours of 2 feet and shall identify accurately the boundaries of the floodplain areas, utilizing the flood insurance study and maps prepared for Hepburn Township by the Federal Emergency Management Agency, dated August 17, 1981.

*(Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982)*

**§22-1013. Performance Bond.**

In addition to the requirements contained in other Sections of this Chapter, no final plan involving improvements being proposed in flood hazard areas shall be approved by the Board of Supervisors until the developer has entered into an agreement with the Supervisors guaranteeing installation of the improvements. Such guarantee may take the form of financial security, such as a performance bond, escrow account, or other assurance deemed acceptable to the Supervisors. Such financial security shall be provided and administered in accordance with the provisions of §22-704.

*(Ord. 74-2, 7/2/1974; as amended by Ord. 1989-3, 8/3/1989)*



### **C. Design Standards and Improvements in Flood Hazard Area**

#### **§22-1021. General.**

1. Where not prohibited by this or any other laws or ordinances (including the Floodplain Management Regulations adopted February 2, 1982), land located in Flood Fringe and General Floodplain Area(s) 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.

2. Building sites for residential construction or any other related types of development may not be permitted in any Floodway Area. Sites for these uses may be permitted outside the Floodway Area if the sites or dwelling units are elevated to a height at least 1½ feet above the elevation of the 100-year flood. If fill is used to raise the elevation of a site, the fill area shall extend out laterally for a distance of at least 15 feet beyond the limits of the proposed structures. (For additional details on floodproofing, see the above-referenced "Floodplain Management Regulations").

3. Sites for nonresidential structures or buildings may also not be permitted in any Floodway Area. Sites for nonresidential construction outside of the Floodway shall be protected as provided for in subsection .2 above. Or, the Board of Supervisors may allow such development to occur at an elevation less than 1½ feet above the 100-year flood if the structure(s) is designed and constructed to be water-tight with walls substantially impermeable to the passage of water to the level of the 100-year flood and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

4. If the Township Supervisors determine that only a part of a proposed plat can be safely developed, they may limit development to that part and may require that development proceed consistent with this determination.

5. When a developer does not intend to develop the plat himself and the Township Supervisors determine that additional controls are required to insure safe development, they may require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.

6. The plan shall show the boundary of the 100-year floodplain utilizing the Township's Flood Insurance Study and Maps, prepared by the Federal Emergency Management Agency, dated August 17, 1981. Where detailed information is not available, the floodplain should be generally located on the plan utilizing the best available data. The 100-year flood elevation shall be provided wherever the flood insurance study provides detailed information or where new developments of more than 50 lots or 5 acres, whichever is less, are involved.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

#### **§22-1022. Excavation and Grading.**

Where any excavation or grading is proposed or where any existing trees, shrubs or other vegetative cover will be removed, within a designated floodplain, the developer shall consult the County Conservation District representative concerning plans for erosion and sediment control and to also obtain a report on the soil characteristics of the site so that a determination can be made as to the type and degree of development

that site may accommodate. Before undertaking any excavation or grading, the developer shall obtain a grading and excavation permit if such is required by the Township.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1023. Alteration of Streams or Watercourses.**

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management. In addition, the Federal Insurance Administrator and the Pennsylvania Department of Community and Economic Development, shall also be notified by the Township prior to the alteration or relocation of any watercourse.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982; and as amended by Ord. 8.5.2008, 8/5/2008*)

**§22-1024. Streets.**

The finished elevation of proposed new streets shall be not more than 1 foot below the 100-year flood elevation. The Township Supervisors may require, when or where necessary, profiles and elevations of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1025. Sewer Facilities.**

All new or replacement sanitary sewer systems, whether public or private, if permitted to be located in floodplain areas, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges of untreated sewage from the systems into flood waters. No part of any on-site sewage system may be located within an identified floodplain area except in strict compliance with all State and local regulations for such systems. In addition, the Township Supervisors may:

A. Prohibit installation of on-site sewage disposal facilities requiring soil absorption areas where such systems may not function due to high ground water, flooding or unsuitable soil characteristics. In such instances, the Supervisors may require that the developer note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited in designated areas; or,

B. Prescribe adequate methods for sewage disposal. If a community sanitary sewer system is located on or near the proposed subdivision and/or land development, the Supervisors may require the developer to provide facilities to connect to such system where practical, and may further prescribe the procedures to be followed by the developer in connecting to the system.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1026. Water Facilities.**

All new or replacement water systems, whether public or private, located in

floodplain areas, shall be designed to minimize or eliminate infiltration of flood waters into the system, and shall be located and constructed to minimize or eliminate flood damage.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1027. Other Public Utilities and Facilities.**

All other new or replacement public or private utilities and facilities (such as gas, electrical or telephone lines) in flood-prone areas shall be elevated (where possible) and/or constructed to minimize the chance of impairment during a flood.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

**§22-1028. Drainage Facilities.**

Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(*Ord. 74-2, 7/2/1974; as added by Ord. 82-2, 2/2/1982*)

