

ORDINANCE NO. 1-2025

AN ORDINANCE OF THE TOWNSHIP OF SALEM, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA AMENDING THE TOWNSHIP'S SUBDIVISION AND LAND DEVELOPMENT ORDINANCE MAKING PROVISIONS FOR THE CHARGING AND ESCROW OF PROFESSIONAL CONSULTANT FEES, REVISING THE DEFINITIONS OF CERTAIN SUBDIVISIONS, AUTHORIZING THE PLANNING COMMISSION TO PROPOSE RULES AND REGULATIONS REGARDING THE SUBMISSION AND DISPOSITION OF PLANS AND REPEALING PORTIONS OF THE ORDINANCE FOUND TO BE UNENFORCEABLE

WHEREAS, the Board of Supervisors of Salem Township, under the authority of the Pennsylvania Municipalities Planning Code ordained and enacted Ordinance No. 01-2006 hereafter referred to as the Salem Township Subdivision and Land Development Ordinance (hereafter the "SALDO"; and

WHEREAS, the Board of Supervisors of Salem Township are vested with the authority to make modifications to its SALDO; and

WHEREAS, the Board of Supervisors of Salem Township desire to amend the Township's SALDO as set forth hereafter to implement provisions of the Municipalities Planning Code regarding the charging of professional consultant fees, modify the definitions of certain subdivisions to facilitate the application of charges for the administration and review of same, facilitate the implementation of changes to the procedures under which plans are reviewed and eliminate portions of the SALDO which have been ruled unenforceable.

NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HEREIN BY REFERENCE THERETO, THE BOARD OF SUPERVISORS OF SALEM TOWNSHIP HEREBY ORDAIN AND ENACT AS FOLLOWS:

1. THAT, Section 208 of the Township's SALDO be repealed in its entirety and replaced with the following:

"Section 208 - Fees.

A. Application Filing Fee. At the time of submitting a preliminary or final plan, the applicant shall pay an application filing fee, the amount shall be determined by a schedule adopted from time to time by Resolution of the Board of Supervisors. The application filing fee shall cover the costs associated with processing an application for approval of a subdivision or land development. The filing fee shall be paid in legal tender or by check or money order made payable to the Township and shall be deposited at the time an application is submitted with the Treasurer for transfer to the general fund. The Application Filing Fee shall be non-refundable.

B. Application Review Fees. Application review fees shall be charged to the Applicant and shall include reasonable and necessary charges by the Township's Professional Consultants or the Township Engineer for review and report on the application to the Township. Such review fees shall be based upon a schedule established from time to time by Resolution of the Board of Supervisors and shall be posted at the Township Office Building and on the Township's website. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Township Engineer or other consultants for similar service in the community, but in no event shall fees exceed the rate or cost charged by the Township Engineer or other consultants to the Township when fees are not reimbursed or otherwise imposed on applicants. Fees charged to the municipality relating to any appeal of a decision on an application shall not be considered review fees and may not be charged to an applicant.

- 1) The Township shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Nothing in this subparagraph shall prohibit interim itemized billing or municipal escrow or other security requirements.
- 2) In the event that the applicant disputes the amount of any such review fees, the applicant shall, within **14 days** of the billing date, notify the Township Secretary and the Township's professional consultant that such fees are disputed, and shall explain the basis of the objections to the fees charged, in which case the Township shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees. Failure of the applicant to dispute a bill within **14**

days of the billing date shall be a waiver of the applicant's right to arbitration of that bill under section 510(g) of the Municipalities Planning Code [53 P.S. 10510(g)].

- 3) In the event that the Township and the applicant cannot agree on the amount of the review fees which are reasonable and necessary, then the applicant and the Township shall follow the procedure for resolution of disputes set forth in Subsection C of this section.
- 4) Subsequent to a decision on an application, the Township shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of approval, the review fees shall be charged to the applicant as a supplement to the final bill.

C. Professional Consultant Fee Escrow. The Township may prescribe that Applicants deposit funds with the Township sufficient to pay for the reasonable and necessary expense incurred for the Township's Professional Consultants at the time the Application is made. The amount of the deposit shall be based upon a schedule established from time to time by Resolution of the Board of Supervisors and held in escrow by the Township to reimburse it for the Professional Consultant fees the Township actually incurs. The Township may require the Applicant to deposit additional funds with the Township in the event the fees charged exceed the amount of the initial deposit. In the event the amounts held in escrow exceed the amount of the Professional Consultant fees charged, the Township shall reimburse the Applicant with any unused balance. The Township shall pay all Professional Consultant fees when due and obtain reimbursement from the escrowed funds.

- 1) The Township shall submit to the applicant an itemized bill showing work performed, identifying the person performing the services and the time and date spent for each task. Such expense shall be reasonable and in accordance with 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 Township Engineer or consultant to the Township when fees are not reimbursed or otherwise imposed on applicants.

- 2) In the event that the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within **14 days** of the date of billing, notify the Township Secretary and the Township's Professional Consultant 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.
- 3) If, within **30 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 the Township shall jointly, by mutual agreement, appoint another professional engineer, licensed as such in the Commonwealth of Pennsylvania, to review said expenses and make a determination as to the amount thereof which is reasonable and necessary.
- 4) 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 shall render a decision within **50 days** of the billing date. The applicant shall be required to pay the entire amount determined by the decision immediately.
- 5) In the event that the Township and the applicant cannot agree upon the professional engineer to be appointed within **30 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 is 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 five years.
- 6) The fees 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 1/2 of the fee of the appointed professional engineer.
- 7) Subsequent to a decision on an application, the Township shall submit to the applicant an itemized bill for review fees, specifically designated as a final bill. The final bill shall include all review fees incurred at least

through the date of the decision on the application. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of approval, the review fees shall be charged to the applicant as a supplement to the final bill.

D. **Inspection Fee Escrow and Utility Certificates.** In order to defray a part of the costs incurred by the Township in inspecting the installation of the improvements required by this chapter to assure compliance with the requirements of this chapter, the developer shall, at the time he files the original tracing of the final plat of a subdivision with the Township, present a certified check or money order made payable to the Township in an amount equal to 7% of the cost of all public improvements approved by the Engineer. The developer shall also present certificates from all utility companies, stating that the final plan meets the requirements and specifications insofar as the utility service which they provide is concerned.

E. **Other Fees.** Nothing in this section shall be deemed or construed to affect or apply to any other fees charged under the Township's Ordinances relating to Stormwater Management, Sanitary Sewage or the issuance of Building Permits under the Township's Building Codes and inspections performed under such Ordinances. Provided, however, that in the event any Subdivision or Land Development is referred to the Township Engineer, Township Sewage Enforcement Officer or Township Building Code Official for review, then the anticipated costs and expenses associated with such review shall be escrowed and paid pursuant to the terms of Section 208.

F. **Modification of Fees and Escrow Deposits.** The Board of Supervisors may modify those fees and escrow deposits set forth in this paragraph by Resolution at any time hereafter to defray the costs associated with the process of ensuring compliance with this Ordinance. No person shall have the right of refund resulting from withdrawal of an application or denial of any preliminary or final plan by the Board of Supervisors."

2. THAT Section 302 of the Township's SALDO shall be amended to include the language underlined below:

"302. PLAN SUBMISSION:

All preliminary and final plans submitted pursuant to this ordinance shall conform to the requirements of this Ordinance and shall, in addition, conform

to such administrative regulations of the Township as may have been adopted at any time, or from time to time, and be in effect and applicable at the time the plan is submitted. A plan submission shall be deemed administratively complete upon receipt of those materials required by the rules and regulations established by resolution of the Board of Supervisors and in effect at the time the plan is submitted.”

3. THAT, Section 308 of the SALDO be modified to add the following Section 308.F:

“308.F. The Planning Commission may make recommendations to the Board of Supervisors for the establishment and/or amendment of rules and regulations regarding plan submission procedures consistent with the Township’s Subdivision and Land Development Ordinance and the laws of the Commonwealth. Any such recommendations shall not be effective unless approved by Resolution of the Board of Supervisors.”

4. THAT, Section 501 of the SALDO defining a “Minor Subdivision” be deleted in its entirety and the remaining Sections renumbered accordingly.

5. THAT, the Definitions set forth in Article VIII be amended to amend the existing definitions of the terms set forth hereafter and add the following definitions for those terms not previously defined:

PROFESSIONAL CONSULTANTS: For purposes of this Ordinance the term “Professional Consultant” shall mean those persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

LAND DEVELOPMENT:

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

(a) A group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

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

(2) A subdivision of land.

(3) This term shall exclude:

(a) the conversion of an existing single-family detached dwelling or single family semi-attached dwelling into not more than three (3) residential units; unless such units are intended to be a condominium;

(b) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

(c) the addition or conversion of buildings and rides within the confines of an amusement park enterprise consistent with the terms of 53 P.S. §10503(1.1) as amended.

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

SUBDIVISION, LOT LINE REVISION/SIDE LOT ADDITION: The subdivision of property for the conveyance of a lot, parcel or portion of property between adjoining property owners where:

- 1) no new construction is being proposed for the parcel or parcels being conveyed;
- 2) no sanitary sewer facilities are proposed for the parcels conveyed; and
- 3) such conveyance is exempt from sewage planning under the Pennsylvania Sewage Facilities Planning Act.

SUBDIVISION, MAJOR:

- 1) A subdivision of more than six (6) lots, tracts, or parcels of land, for immediate or future transfer of ownership and/or development;

- 2) A subdivision containing more than one single-family detached dwelling per lot;
- 3) A subdivision that proposes the construction of a new multi-family dwelling on a lot;
- 4) A subdivision that causes the extension or installation of any new public street, community or public water system, public sewer system or any other public improvements required under this Ordinance;
- 5) A subdivision containing a non-residential use;
- 6) A phased development; or
- 7) Any subdivision that does not file within the definition of a Minor Subdivision or a Lot Line Revision / Side Lot Addition as defined herein.

SUBDIVISION, MINOR:

- 1) The subdivision of a single lot, tract, or parcel of land into no more than six (6) lots, tracts, or parcels of land, for immediate or future transfer of ownership and/or development, which does not cause or require the extension or installation of any new public street, community or public water system, public sewer system or any other public improvements required under this Ordinance;
- 2) A subdivision which creates no more than six (6) lots, tracts or parcels which requires sewage facilities planning under the Pennsylvania Sewage Facilities Planning Act, but which does not cause or require the extension or installation of any new public street, community or public water system, public sewer system or any other public improvements required under this Ordinance may be considered a "Minor Subdivision".

6. THAT, the following provisions of the existing SALDO be repealed or modified as set forth hereafter to remove provisions held to be unenforceable under and/or preempted by the Pennsylvania Oil and Gas Act:

- A. Appendix B shall be and is hereby repealed in its entirety;
- B. Section 301.D shall be and is hereby repealed in its entirety and the remaining portions of Article III shall be renumbered accordingly;

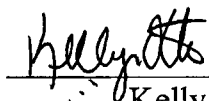
- C. Section 308.B to shall be and is hereby amended to remove the first sentence and shall hereafter read: "All plans of subdivision submitted to the Township shall first be reviewed by the Planning Commission";
- D. Section 418 shall be and is hereby repealed in its entirety and the remaining portions of that Article IV renumbered accordingly;
- E. The definition of "Improvements" in Article VIII shall be and is hereby amended to remove the phrase "gas and oil wells, gas and oil transmission and transportation lines and other facilities related to land development activities associated with oil, gas or other mineral extraction";
- F. The definition of "Land Development Not Involving Subdivisions" in Article VIII shall be and is hereby repealed in its entirety.

7. THAT, all other terms and provisions of the Township's SALDO not otherwise affected by these amendments shall remain and continue in full force and effect.

THIS ORDINANCE IS ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF SLEM AT A DULY ADVERTISED PUBLIC MEETING HELD THE 16th DAY OF April, 2025 AND SHALL TAKE EFFECT IN FIVE (5) DAYS FROM THE DATE OF ITS ENACTMENT.

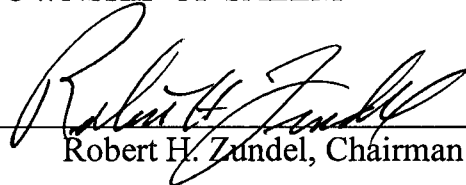
ATTEST:

THE BOARD OF SUPERVISORS OF
THE TOWNSHIP OF SALEM



Kelly Otto, Secretary

BY:



Robert H. Zundel, Chairman