

CHAPTER 22

SUBDIVISION AND LAND DEVELOPMENT

Part 1

Purpose and Authority

- \$101. Grant of Power
- \$102. Short Title
- \$103. Application of Regulations

Part 2

Definitions

- \$201. Interpretation

Part 3

Application and Processing Procedures

- \$301. Introduction
- \$302. Pre-Application Procedures
- \$303. Sketch Plans
- \$304. Preliminary Plans
- \$305. Preliminary Plans and Data
- \$306. Approval of Final Plan
- \$307. Final Plat and Data Required for Approval
- \$308. Resubdividing or Replatting
- \$309. Subdivision of Three (3) Lots or Less
- \$310. Modifications

Part 4

Design Standards

- \$401. Application of Standards
- \$402. Land Requirements
- \$403. Street Requirements
- \$404. Lots
- \$405. Building Lines
- \$406. Blocks
- \$407. Easements
- \$408. Sidewalks
- \$409. Reserved Areas
- \$410. Street Names
- \$411. Access

Part 5

Improvements and Construction Requirements

- \$501. Introduction
- \$502. Monuments
- \$503. Utility and Street Improvements
- \$504. Water Supply
- \$505. Sanitary Sewers
- \$506. Storm Sewers
- \$507. Streets, Curbs, Base and Pavements
- \$508. Sidewalks
- \$509. Street Signs
- \$510. Street Trees
- \$511. Existing Natural Conditions (Trees and Streams)
- \$512. Completion of Improvements or Guarantee Thereof
Prerequisite to Final Plat Approval
- \$513. Release from Improvement Bond
- \$514. Remedies to Effect Completion of Improvements

Part 6

Conditions of Acceptance

- \$601. Recording Plats and Deeds
- \$602. Specific Conditions
- \$603. Exemptions
- \$604. Effect of Plat Approval on Official Map

Part 7

Fees

- \$701. Fee to Accompany Application for
Review and Approval of Plats

Part 8

Certificates, Affidavits and Approvals

- \$801. Certificates, Affidavits and Approvals

Part 9

Administration and Modification

- \$901. Changes
- \$902. Modifications
- \$903. Amendments
- \$904. Preventive Remedies
- \$905. Enforcement Remedies

Part 1

Purpose and Authority

§101. Grant of Power. The governing body of each Borough may regulate subdivision and land development within the Borough by enacting a subdivision and land development ordinance. The ordinance may require that all plats of land lying within the Borough shall be submitted for approval to the governing body or in lieu thereof to a planning agency designated in the ordinance for this purpose. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by an ordinance adopted pursuant to Article VII of the Pennsylvania Municipalities Planning Code, Act 247, however, the applicable provisions of the subdivision and land development ordinance shall be as modified by such ordinance and the procedures which shall be followed in the approval of any plat and the rights and duties of the parties thereto shall be governed by Article VII of Act 247 and the provisions of the ordinance adopted thereunder. (Ord. 80, 1/24/1980, §101)

§102. Short Title. This Chapter shall be known and may be cited as the "Beech Creek Borough Subdivision and Land Development Ordinance." (Ord. 80, 1/24/1980, §103; as amended by Ord. 8/4/1992 8/4/1992)

§103. Application of Regulations.

1. No subdivision or land development of any lot, tract or parcel of land, sewer, storm sewer, water main, or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings thereon unless and until a final subdivision plat has been approved by the Borough Council and publicly recorded in the manner prescribed herein; nor otherwise, except in strict accordance with the provisions of this Chapter.

2. No lot in a subdivision may be sold; no permit to erect or alter any building upon land in a subdivision or land development may be issued; and, no building may be erected or altered in a subdivision or land development, unless and until a final subdivision plat has been approved by the Borough Council and recorded, and until construction or guarantee of the improvements required in the manner prescribed herein.

(Ord. 80, 1/24/1980, §§104, 105; as amended by Ord. 8/4/1992, 8/4/1992)

Part 2
Definitions

§201. Interpretation. For the purpose of this Chapter, words used in the present tense include the future tense, the terms "shall" and "will" are always mandatory, and the word "may" is permissive. Unless otherwise expressly stated, the following words shall, for the purpose of this Chapter, have the meaning herein indicated.

APPLICATION FOR DEVELOPMENT - every application, whether preliminary, tentative or final required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan. [Ord. 8/4/1992]

AVAILABLE SEWER - a municipal sewer is considered available if it is within one thousand (1,000) feet or less from the nearest point of a subdivision or land development. [Ord. 8/4/1992]

BUILDING LINE - the line within the property defining the required minimum distance between any enclosed structure and the adjacent street right-of-way.

CARTWAY - that portion of the street right-of-way surfaced for vehicular use. Width is determined from face of curb to face of curb.

CLEAR SIGHT TRIANGLE - a triangular area of unobstructed vision on corner lots formed by a seventy-five (75) foot sight line along the edge of the right-of-way for an arterial or collector road, by a fifty (50) foot sight line along the edge of the right-of-way for a local street and by a line joining these two (2) sight lines at the greatest distance from their intersection.

COMMON OPEN SPACE - a parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities. [Ord. 8/4/1992]

COMPREHENSIVE PLAN - consists of maps, charts and textual matter, prepared and adopted pursuant to Article III of the Municipalities Planning Code, 53 P.S. §10301 et seq. [Ord. 8/4/1992]

COUNCIL - the Beech Creek Borough Council.

COVENANT - an obligation defined by law or agreement, the violation of which can be restrained by court action; these are usually stated in the deed.

CUL-DE-SAC - a residential street with one (1) end open to traffic and pedestrian access and permanently terminated by a vehicular turnaround.

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

DEVELOPMENT PLAN - the provisions for development including a planned residential development, a plat of subdivision, all covenants relating to

use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of development plan" when used in this Chapter shall mean the written and graphic materials referred to in this definition. [Ord. 8/4/1992]

EASEMENT - grant by a property owner of the use, for a specific purpose or purposes, of a strip of land by the general public, a corporation or a certain person or persons.

ESSENTIAL SERVICE - the erection, construction, alternation or maintenance by public utilities or municipal departments or commissions, including buildings necessary for the furnishing of adequate services for the public health, safety or general welfare.

FRONT YARD - the open space extending across the width of the lot, between the front building line and the street right-of-way.

GROUP HOUSING PROJECT - where two (2) or more residential buildings are constructed on a plot of ground not subdivided into customary lots and streets.

IMPROVEMENTS - those physical changes to the land necessary to produce usable and desirable lots from raw acreage including, but not limited to, grading, paving, curb, gutter, storm sewers and drains, improvements to existing water courses, sidewalks, crosswalks, street signs, monuments, water supply facilities, and sewage disposal facilities. Improvements also mean physical changes to one (1) lot where those changes are being undertaken for the purpose of a land development. [Ord. 8/4/1992]

LAND DEVELOPMENT - any of the following activities:

A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

(1) A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,

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

B. A subdivision of land.

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

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

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

(3) The addition or conversion of buildings or rides within

the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

[Ord. 8/4/1992]

LANE (OR ALLEY) AND DRIVE - a minor right-of-way providing secondary vehicular access to the side or rear of two (2) or more properties.

LOT - a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. [Ord. 8/4/1992]

MOBILEHOME - a transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) 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. [Ord. 8/4/1992]

MOBILEHOME LOT - a parcel of land in a mobilehome park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobilehome. [Ord. 8/4/1992]

MOBILEHOME PARK - a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobilehome lots for the placement thereon of mobilehomes. [Ord. 8/4/1992]

MUNICIPAL AUTHORITY - a body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipalities Authority Act of 1945." [Ord. 8/4/1992]

PERSON - natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

PLANNED RESIDENTIAL DEVELOPMENT - an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter. [Ord. 8/4/1992]

PLANNING COMMISSION - the Beech Creek Borough Planning Commission.

PLAT, FINAL - a complete and exact subdivision plat, prepared for official recording as required by statute, to define property right and proposed streets and other improvements. [Ord. 8/4/1992]

PLAT, PRELIMINARY - a tentative subdivision plat, in lesser detail than a final plat, showing approximate street and lot layout on a topographic map as a basis for consideration prior to preparation of a final plat.

PUBLIC GROUNDS - includes:

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

[Ord. 8/4/1992]

PUBLIC HEARING - a formal meeting held pursuant to public notice by the Borough Council or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter. [Ord. 8/4/1992]

PUBLIC MEETING - a forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," 53 P.S. §§271 et seq. [Ord. 8/4/1992]

PUBLIC NOTICE - notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing. [Ord. 8/4/1992]

REAR YARD - the required open space extending from the rear of the main building and along the rear lot line (not a street line) throughout the whole width of the lot. .

RESUBDIVISION OF REPLATTING - the replatting of a recorded subdivision in whole or in part, by a redesign of lots, by change of size or area, or by street layout.

RIGHT-OF-WAY - any public highway, lane or alley accepted by different levels of government for public use; all must be recorded in the Recorder of Deed's Office, Clinton County, Lock Haven, Pennsylvania.

SIDE YARD - the required open space extending from the side of any building along the side lot line throughout the entire depth of the building.

STREET - includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. [Ord. 8/4/1992]

STREETS, CLASSIFICATIONS OF - [Ord. 8/4/1992]

PRIMARY - primarys bring traffic to and from the expressway and serves major movements of traffic within or through the areas not served by expressways. They serve primarily to move traffic, but also perform a secondary function of land service. The average length of trip normally exceeds three (3) miles.

SECONDARY - this class of road serves the internal traffic movement within the Borough and connects developed areas with the primary system. They do not accommodate long, through trips and are not continuous for any appreciable length. The principal difference

between secondary and primary roads is the length of trip accommodated. The secondary system is intended to simultaneously supply abutting property with the same degree of land service as a local street and accommodate local internal traffic movements.

LOCAL - the local street's sole function is to provide access to immediately adjacent land. They normally represent a fairly large percentage of the total street mileage, but carry a small proportion of the vehicle miles traveled daily.

STRUCTURE - any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. [Ord. 8/4/1992]

SUBDIVIDER - the owner, or authorized agent of the owner, of the subdivision.

SUBDIVISION - the division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted. [Ord. 8/4/1992]

SUBSTANTIALLY COMPLETED - where in the judgment of the Borough engineer, at least ninety (90%) percent (based on the cost of the required improvements for which financial security was posted pursuant to the requirements of this Chapter) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use. [Ord. 8/4/1992]

TOPOGRAPHIC MAP - a map showing ground elevations by contour lines and the location of important natural and other objects.

WATER SURVEY - an inventory of the source, quantity, yield and use of groundwater and surface-water resources within the Borough. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, §201; as amended by Ord. 8/4/1992, 8/4/1992)

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Part 3

Application and Processing Procedures

§301. Introduction. Whenever a subdivision or land development of land is desired to be effected, a plat of the layout of such subdivision or land development shall be prepared, filed and processed according to the requirements of this Chapter. (Ord. 80, 1/24/1980, §300; as amended by Ord. 8/4/1992, 8/4/1992)

§302. Pre-Application Procedures.

1. Any prospective developer or subdivider may meet with the Borough Planning Commission to discuss and review tentative plans and/or any provision of this Chapter.

2. Prior to the final plan submission the prospective developer must have complied with the planning requirements of the Pennsylvania Sewage Facilities Act as administered by the Pennsylvania Department of Environmental Resources. It is suggested that the prospective developer consult the Borough Sewage Enforcement Officer or the Clinton County office of the Pennsylvania Department of Environmental Resources as to the requirements of the Act.

3. Prospective developers shall consult the County Conservation District representative concerning erosion and sediment control and the effect of geologic conditions on the proposed development. At the same time, a determination should be made as to whether or not any flood hazards either exist or will be created as a result of the subdivision or development. Land that is subject to flooding shall not be platted for residential occupancy or for any other use that may endanger health, life, or property. Such land within a subdivision shall be set aside for such uses as shall not be endangered by periodic or occasional flooding and shall not produce unsatisfactory living conditions.

(Ord. 80, 1/24/1980, §301; as amended by Ord. 8/4/1992, 8/4/1992)

§303. Sketch Plan.

1. Prospective subdividers and developers are strongly urged to discuss possible development with the Planning Commission prior to submission of a preliminary plan. A sketch plan shall be presented for review not less than ten (10) days prior to the regular meeting of the Planning Commission at which it is to be considered. Submission of a sketch plan will not constitute a formal filing of a subdivision or land development plan with the Borough.

2. Data furnished in a sketch plan shall be at the discretion of the prospective applicant. For fullest usefulness, it is suggested that a sketch plan should include the following information:

- A. Tract boundaries.
- B. Location within the Borough.
- C. North point.

D. Streets on and adjacent to the tract.

E. Significant topographical physical features including floodplains, if any.

F. Proposed general street layout.

G. Proposed general layout of the development, including location of proposed open space and other preservation areas and other general features of the development.

H. A sketch plan need not be to scale nor are precise dimensions required.

(Ord. 80, 1/24/1980, §302; as amended by Ord. 8/4/1992, 8/4/1992)

§304. Preliminary Plans.

1. Submission of Preliminary Plans.

A. The preliminary plan and all information and procedures relating thereto shall in all respects be in compliance with the applicable provisions of this Chapter. It is the responsibility of the applicant to coordinate his plans with the respective private and public service agencies.

B. The application form shall be accompanied by the requisite fee as set forth in §701 of this Chapter and by not less than three (3) copies of all required material and not less than nine (9) prints of the preliminary plan of the subdivision or development as required, from time to time, by resolution of Borough Council.

C. The Borough Secretary shall forward one (1) copy of the preliminary plan prints and one (1) copy of the required material to the Clinton County Planning Commission, Borough Engineer, and such other agencies as he deems appropriate for review and comment. The Borough Secretary shall forward the remaining copies of the preliminary plan prints and required materials to the Planning Commission.

D. When applicable, the application form shall be accompanied by a planning module for land development, as required by the Pennsylvania Department of Environmental Resources.

2. Review of Preliminary Plan.

A. In cases where the subdivision or land development adjoins an existing or proposed State highway or has proposed streets entering onto State highways, the applicant shall submit the plans to the Pennsylvania Department of Transportation for review in accordance with §508(6) of the Municipalities Planning Code, 53 P.S. §10508(6).

B. The Planning Commission will consider the plan to determine if it meets the standards set forth in this Chapter and the Borough Zoning Ordinance [Chapter 27].

C. The Planning Commission shall act on the preliminary plan within sixty (60) days of the official filing date, but in any event shall act on the plan in time for the Borough Council to render their decision within ninety (90) days from the official filing date.

3. Planning Commission Recommendation.

A. The Planning Commission shall recommend whether the preliminary plan shall be approved, approved with modifications, or disapproved, and shall notify the Borough Council in writing thereof, including, if disapproved, a statement of reasons for such action.

B. In making its recommendation, the Planning Commission shall consider the recommendations of the Borough Engineer, Borough staff, the Clinton County Planning Commission, interested residents, and the recommendations of any agency or agencies from which a review was requested.

4. Borough Engineer Review. All plans shall be reviewed by the Borough Engineer, which review shall precede the transmission of such plans to the Borough Council.

5. Resubmission of Preliminary Plans. A revised plan submitted after disapproval shall be considered, and processed as a new plan submission.

6. Approval of Preliminary Plans.

A. All applications for approval of a preliminary plan shall be acted upon by the Borough Council and the Borough Council shall render its decision and communicate it to the applicant not later than ninety (90) days following the date of the regular meeting of the Planning Commission next following the date the application is filed, provided that the next regular meeting occurs more than thirty (30) days following the filing of the application, the said ninety (90) day period shall be measured from the thirtieth day following the day the application has been filed.

(1) The decision of the Borough Council shall be in writing and shall be communicated to the applicant personally or mailed to him at his latest known address not later than fifteen (15) days following the decision.

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

(3) Failure of the Borough Council 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 application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation 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 effect.

B. Approval of the preliminary plan shall not constitute approval of the subdivision or land development as to the character and intensity or development, the arrangement and approximate dimensions of streets, lots, and other planned features. The approval binds the applicant to the general scheme of the subdivision or land development shown, unless a revised preliminary plan is submitted, and permits the applicant to proceed with final detailed design of

improvements, to arrange for guarantee to cover installation of the improvements, and to prepare the final plan. Approval of the preliminary plan does not authorize the sale of lots nor the recording of the preliminary plan.

(Ord. 80, 1/24/1980, §303; as amended by Ord. 8/4/1992, 8/4/1992)

§305. Preliminary Plans and Data. Preliminary plans and related data required shall include, but not be limited to, the following:

1. The preliminary plat shall be drawn at a scale of one (100) feet to the inch or greater (though not less).

2. The preliminary plat shall show or be accompanied by the following:

A. Draft of protective covenants, if any.

B. Title to include:

(1) Name by which the subdivision will be recorded.

(2) Location by municipality, county and state.

(3) Names and addresses of the owner or owners.

(4) Name of registered engineer or surveyor who surveyed the property and prepared the plat.

(5) North point, date and graphic scale.

C. Tract boundaries with bearings, distances and area in acres to the nearest hundredths.

D. Existing easements, their location, width and distance.

E. Tract closures and block closures with an allowable error of one in ten thousand (1:10,000).

F. Contours at vertical intervals of five (5) feet where subdivisions are sufficient in scope to involve new street openings.

G. Datum to which contour elevations refer.

H. Bench marks.

I. Existing physical features to include:

(1) Watercourses, culverts, bridges and drains.

(2) Buildings, sewers, water mains and fire hydrants.

(3) Streets, lanes, alleys and drives on or adjacent to the tract, including name, right-of-way widths and cartway widths.

J. Proposed improvements shall include:

(1) Location, name and width of all proposed streets, lanes, alleys and paved cartway widths.

(2) Sidewalks and crosswalks.

(3) All rights-of-way and easements.

(4) Lot lines with bearings and dimensions.

(5) Building lines.

(6) Reservations of grounds for public use.

(7) General drainage plan for storm water to include proposed water directions of flow for storm water in relation to natural channels.

(8) A plan of the proposed water distribution system or a plan showing the location of individual wells.

(9) A plan of the proposed sanitary sewerage system or a plan, where required, showing the proposed location of onlot sewage disposal facilities.

(10) Proposed land use of the improvements.

3. The following additional data shall be submitted upon request by the Planning Commission and/or Council.

A. Names and abutting property owners.

B. Subsurface condition of the tract.

C. Profiles showing existing ground and proposed centerline street grades.

D. Typical cross sections of roadways and sidewalks.

E. Sizes of water pipes and location of valves and fire hydrants.

F. Location of manholes, invert elevations, grades and sizes of sanitary sewers.

4. Where applicable, a plan revision module for land development shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Resources. The completed module shall accompany the preliminary plan submission. [Ord. 8/4/1992]

5. At the discretion of Council where existing land conditions warrant, the subdivider shall submit a soil erosion and sedimentation control plan approved by the Clinton County Conservation District.

(Ord. 80, 1/24/1980, §304; as amended by Ord. 8/4/1992, 8/4/1992)

§306. Approval of Final Plan.

1. Submission of Final Plan.

A. After the applicant has received official notification from the Borough Council that the preliminary plan has been approved, he must submit a final plan in accordance with the provisions of §508 of the Municipalities Planning Code, 53, P.S. §10508.

B. The final plan shall conform in all respects with the approved preliminary plan. If it does not, the plan submitted shall be considered as a revised preliminary plan and shall be forwarded by the Borough Secretary to the Planning Commission for review and recommendation as a preliminary plan.

C. The applicant must submit with the final plan a guarantee for the installation of improvements which meets the requirements of §512.

D. The application form shall be accompanied by the requisite inspection and engineering fees as set forth in §701.

E. Documented approval of the planning module for land development by the Pennsylvania Department of Environmental Resources shall be a part of the requisite materials accompanying the final plan submission.

F. The applicant shall submit a reproducible original of the plans, nine (9) prints of the final subdivision or land development plans and at least three (3) copies of all other required information.

G. Upon receipt of the final plan, the Borough Secretary shall forward the original plans and five (5) copies of the plans and one (1) copy of all other materials to the Planning Commission for review and recommendation; one (1) copy of the plan and (1) copy of all other materials to the Clinton County Planning Commission for review and recommendation; one (1) copy of the plan and one (1) copy of all other material to the Clinton County Conservation District for review and comments; one (1) copy of the plan and one (1) copy of all other material to the Borough Engineer; and, copies to such other agencies whose recommendations would be pertinent to the processing of the plan.

2. Review of Final Plans.

A. The Planning Commission will review the plan and requisite materials for compliance with the approved preliminary plan and for conformance to the requirements of this Chapter.

B. The Planning Commission shall act on the final plan within sixty (60) days of the official filing date.

3. Planning Commission Recommendation.

A. The Planning Commission shall recommend whether the final plan shall be approved, approved with conditions, or disapproved, and shall notify the Borough Council in writing thereof, including, if approved with conditions or disapproved, a statement of reasons for such action.

B. In making its recommendation, the Planning Commission shall consider the comments of the Borough Engineer, the Clinton County Planning Commission, the Clinton County Conservation District, PennDot, and the recommendations of any agency or agencies from which a review was requested under §306(1)(G).

4. Borough Engineer Review. All plans shall be reviewed by the Borough Engineer, whose approval shall precede the transmission of such plans to the Borough Council.

5. Resubmission of Final Plans. A revised plan submitted after disapproval shall be considered and processed as a new plan submission.

6. Approval of Final Plans.

A. All applications for approval of a final plan shall be acted upon by the Borough Council and the Borough Council shall render its decision and communicate it to the applicant not later than ninety (90) days following the date of the regular meeting of the Planning

Commission next next following the date the application is filed, provided that should the said next regular meeting occur more than thirty (30) days following the filing of the application, the said ninety (90) day period shall be measured from the thirtieth day following the day the application has been filed.

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

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

(3) Failure of the Borough Council 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 application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in the prescribed manner of presentation of communication shall have like effect.

D. If the final plan is approved subject to conditions, the Borough Council shall not endorse the plan until all of the conditions have been met.

E. If the Borough Council approves the final or grants a conditional approval, they shall set the amount of bonding or other security necessary to guarantee the construction of improvements and community facilities and shall state such amount in the notice to the applicant.

7. Recording of Final Plans.

A. Upon approval of the final plan, the applicant shall prepare one (1) transparent reproduction of the original final plan on stable plastic base film and no less than four (4) prints thereof which shall be submitted to the Borough not less than thirty (30) days after approval. These plans, upon satisfaction of all conditions attached to the approval, will be signed by the Borough Council. A copy of the signed final plan shall be recorded in the office of the Clinton County Recorder of Deeds within ninety (90) days after approval of the final plan or the approval of the Borough Council shall be null and void. The final plan must be recorded before proceeding with the sale of lots or construction of buildings.

B. Recording of final plan shall be an irrevocable offer to dedicate all streets and other public ways to public use, and to dedicate or reserve all park reservations and other public areas to public use unless reserved by the applicant as hereinafter provided. The approval of the final plan shall not impose any duty upon the Borough concerning maintenance of improvements until acceptance by the Borough by ordinance or resolution.

C. The applicant shall place a notation on the final plan if there is no offer of dedication to the public of streets and certain designated public areas, in which event the title to such areas shall remain with the owner, and the Borough shall assume no responsibility for improvement or maintenance thereof; which fact shall be noted on the final plan.

(Ord. 80, 1/24/1980, §305; as amended by Ord. 8/4/1992, 8/4/1992)

§307. Final Plat and Data Required for Approval.

1. The final plat shall be drawn on tracing cloth or other comparable permanent material and shall be on sheets in multiples of seventeen by twenty-two (17" by 22") inches with a border of one-half (1/2) inch on all sides except the binding edge which shall be one (1) inch. More than one (1) sheet may be used for larger tracts and must be indexed.

2. The final plat shall be drawn with waterproof black India ink and all records, data, entries, statements, etc., thereon shall also be made with the same type of ink or reproducible typing; except that contour lines, when shown, shall be drawn with waterproof brown ink or with diluted waterproof India ink so that the said contour lines will show faintly on a print made from the said plat.

3. The final plat shall be drawn to a scale of one hundred (100) feet to the inch or larger (though not less) and shall be of sufficient size to clearly show all notations, dimensions and entries. All dimensions shall be shown in feet and decimals of a foot as well as metric measure.

4. The final plat shall contain a title block in the lower right corner with the following:

- A. Name under which the subdivision is to be recorded.
- B. Date of plat, graphic scale and location of subdivision.
- C. Name of subdivision owner.
- D. Name and address of the registered professional engineer or surveyor preparing plat.

5. All final plats submitted shall be drawn according to the following:

A. Outside of Subdivision:

- (1) Streets and other ways be medium solid lines.
- (2) Property lines of adjacent subdivisions by medium dashed and two (2) dotted lines.
- (3) Lot lines by light dotted lines.
- (4) Restriction lines, easements, etc., by light dashed lines.

B. Within Subdivision:

- (1) Streets or ways by heavy solid lines.
- (2) Perimeter property lines of the subdivision by heavy dashed and two (2) dotted lines.

(3) Lot lines by light solid lines.

(4) Restriction or building lines by light dashed lines.

(5) Easements or other reserved areas by light dashed lines.

6. The final plat shall show:

A. Primary control points, approved by the Council, or description and ties to which all dimensions, angles, bearings and similar plat shall be referred.

B. Acreage of plot.

C. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites with accurate dimensions, bearings or deflection angles, radii, arcs and central angles of all curves.

D. Name and right-of-way width of each street of right-of-way.

E. Location, dimensions and purpose of all easements.

F. Number to identify each lot or site.

G. Purpose for which sites other than residential are to be dedicated.

H. Building setback line on all lots and sites.

I. Location and description of survey monuments.

J. Names of record owners of adjoining unplotted land.

K. Certification of registered surveyor or professional engineer as to the accuracy of survey and plat showing name, address, registration number and seal.

L. Statement by the owner dedicating streets, right-of-way and sites for public use.

M. Protective covenants, if any, in form for recording.

N. Such other certificates, affidavits, endorsements or dedications as may be required in the enforcement of this Chapter.

O. Certification blocks for the appropriate governing and planning bodies.

P. General location map showing relationship of the proposed subdivision to existing community facilities which serve or influence it and shall include development name, location of 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.

7. Where applicable, a plan revision module for land development shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Resources. The completed module shall accompany the final plan submission. [Ord. 8/4/1992]

8. At the discretion of Council, where existing land conditions warrant, the applicant shall submit a soil erosion and sedimentation control plan approved by the Clinton County Conservation District. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, §306; as amended by Ord. 8/4/1992, 8/4/1992)

§308. Resubdividing or Replatting. In the combination or recombination of lots or portions of previously plotted lots, when the resultant lots are increased or decreased in street frontage and total area size that reaches or exceeds the standards of this Chapter and the street pattern is in conformity to the comprehensive plan, the procedures and regulations heretofore described shall be followed except as they may be modified on application to the Planning Commission. (Ord. 80, 1/24/1980, §307)

§309. Subdivision of Three (3) Lots or Less. The provisions of §§305 and 307 may be waived for subdivisions of three (3) lots or less and the following requirements will become applicable:

1. The plat shall be drawn at a scale of one (100) feet to the inch or greater.

2. The plat shall be legibly drawn on linen paper size seventeen (17) inches by twenty-two (22) inches.

3. The plat shall show or be accompanied by the following:

A. Description of covenants.

B. Title to include:

(1) Location by municipality, county, and state.

(2) Names and addresses of the owner or owners.

(3) Name of registered professional engineer or registered surveyor who surveyed the property and/or prepared the plat.

(4) North point, date and graphic scale.

C. Proposed use of the land.

D. Lot lines, dimensions and land area of proposed lot.

E. Existing and proposed streets, alleys, lanes, drives and/or easements on or adjacent to the tract.

F. Available utilities (If public sewer and water facilities are not available, proposed water source and sewage disposal system should be indicated).

G. Statement by the owner dedicating streets and right-of-way for public use.

H. Names of abutting property owners.

I. The following additional data shall be submitted upon request by the Planning Commission and/or Council.

(1) Subsurface and drainage conditions of the tract.

(2) Any other data pertinent to the plat.

4. Where applicable, a plan revision module for land development shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Resources. The completed module shall accompany the submission. [Ord. 8/4/1992]

5. At the discretion of Council, where existing land conditions warrant, the applicant shall submit a soil erosion and sedimentation control plan approved by the Clinton County Conservation District. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, §308; as amended by Ord. 8/4/1992, 8/4/1992)

§310. Modifications.

1. The Borough Council may grant a modification of the requirements of one (1) or more provisions of this Chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Chapter is observed.

2. All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this Chapter involved and the minimum modification necessary.

3. The request for modification shall be referred to the Planning Commission for advisory comments.

4. The Borough Council shall keep a written record of all action on all requests for modifications.

(Ord. 80, 1/24/1989, §309; as amended by Ord. 8/4/1992, 8/4/1992)

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Part 4
Design Standards

\$401. Application of Standards. The following land subdivision principles, standards and requirements shall be applied by the Planning Commission and Council in evaluating the plats for proposed subdivisions and shall be considered minimum requirements. (Ord. 80, 1/24/1980, \$400)

\$402. Land Requirements.

1. Land shall be suited for the purpose for which it is to be subdivided in accordance with the interest and purpose of the elements of the Comprehensive Plan.

2. Land subject to hazards of life, health and safety shall not be subdivided until such hazards have been removed. Also see §303(2).

(Ord. 80, 1/24/1980, \$401)

\$403. Street Requirements.

1. Proposed streets shall be properly related to County and State road and highway plans which have been prepared and officially adopted.

2. Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.

3. Local streets shall be so laid out as to discourage through traffic, but provisions for street connections into and from adjacent areas will be generally required.

4. Half streets shall be prohibited except to complete an existing half street.

5. Dead end streets shall be permitted when it is clear that through traffic at such a street end is not essential to the street system in that district and, under the said conditions, a dead end must have adequate turning space for vehicles (cul-de-sac), which is a minimum paved radius of twenty-five (25) feet and a right-of-way radius of thirty-five (35) feet.

6. Any street or way already established shall be continued at not less than its existing width.

7. Any street or way that is planned, though not already established, shall be continued at not less than its width as planned.

8. Maximum allowable grades:

- | | |
|--------------|--------------------|
| A. Primary | Five (5%) percent |
| B. Secondary | Eight (8%) percent |
| C. Local | Ten (10%) percent |

(Grades in excess of ten (10%) percent may be approved by the Council where it is clear that no traffic hazard is or will be created thereby.)

9. Minimum grades on all streets shall not be less than one-half (1/2) of one (1%) percent.

10. Vertical curves shall be installed on all street grade changes

exceeding one (1%) percent.

11. Alignment.

A. Minimum centerline radius for horizontal curves:

- (1) Primary One thousand (1,000) feet
- (2) Secondary Three hundred (300) feet
- (3) Local Two hundred (200) feet

B. Horizontal curves shall be laid on all deflecting streets.

C. Degree of curvature shall be set to assure proper sight distance.

12. Widths. Minimum street right-of-way widths and cartway widths shall be as follows:

Type of Street	Type of Development	Cartway	Right-of-Way
Local and Secondary	Single-Family Lots (No on-street parking)	20 feet	50 feet
	(One side on-street parking)	26 feet	
	(Two-lane on-street parking)	34 feet	
Primary	All types	As prescribed by the Pennsylvania Department of Transportation	

In cases where a new subdivision is planned to join the street system of an existing subdivision, the above minimum requirements shall apply except where the existing streets and right-of-way are larger than required. In this event, the Council may require that the new streets and rights-of-way be as large as the existing. Private covenants may apply if their provisions are in excess of this Part.

13. Cul-de-sacs. Cul-de-sacs are permitted where the length does not exceed six hundred (600) feet and where a turnaround with right-of-way diameter of fifty (50) feet or greater is provided. Cul-de-sacs are to be paved. Extension of a cul-de-sac will be permitted to connect to a street system of a new or extended subdivision provided that the maximum street lengths for blocks and cul-de-sacs are met. This street is not essential to the street system of the area.

14. Street Intersections.

A. All curbs at intersections shall be rounded by a minimum radius of:

- (1) Secondary and Primary Twenty (20) feet
- (2) Local Fifteen (15) feet

Twenty (20) foot radius will be maintained where secondary-arterial streets intersect local streets.

B. When any street intersection will involve banks or vegetation, existing or to be planted inside any lot corner, that

would create a traffic hazard by limited visibility, from a height of two (2) feet, finished paved area, at the centerline of the right-of-way, the applicant shall cut such ground and/or vegetation in conjunction with grading the right-of-way to provide a sight line of seventy-five (75) feet along the centerline of a major street from the centerline intersections and fifty (50) feet at local street intersections. When a major and a local street intersect, each shall retain their respective footage requirements along the centerline to form the sight triangle. [Ord. 8/4/1992]

C. Where the grade of any street at the approach to an intersection exceeds five (5%) percent, a leveling area shall be provided with a transitional grade not to exceed two (2%) percent for a distance of fifty (50) feet from the nearest right-of-way line of the intersection.

D. Intersection of more than two (2) streets shall be avoided.

E. Minimum street intersection angles shall be sixty (60) degrees.

15. Street Off-Sets. Street off-sets of less than one hundred twenty-five (125) feet are to be avoided.

16. Reverse Curves. Reverse curves shall have a minimum tangent between them of:

- | | |
|----------------------|--------------------------|
| A. Primary Streets | Three hundred (300) feet |
| B. Secondary Streets | One hundred (150) feet |
| C. Local Streets | One hundred (100) feet |

17. Lanes (or Alleys) and Drives.

- A. Not permitted in residential districts.
- B. Permitted in commercial and industrial districts subject to approval of the Council.
- C. Shall be paved at least twenty (20) feet in width.
- D. Maximum grade shall be ten (10%) percent.

18. No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to §420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law," 36 P.S. §670-420, before driveway access to a State highway is permitted. In addition, the plat shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, §402; as amended by Ord. 8/4/1992, 8/4/1992)

§404. Lots.

1. Lots shall be designed in accordance with the District and Lot and Area Requirements in the Beech Creek Borough Zoning Ordinance [Chapter 27].

2. The frontage width of lots fronting a cul-de-sac shall be determined as the width at the building line. The side yard setback

requirements will be calculated from the midpoint of the structure along the average length of both sides of the structure.

3. All lots lines shall be set perpendicular or radial to the centerline of the street whenever possible. All non-radial lines shall be denoted as such on the plat.

4. Lots abutting local streets shall front upon the streets which parallel the long dimension of the block, if possible.

5. All lots shall abut by their full frontage on a publicly dedicated street or on a street that has received the legal status as such. Lots abutting on private streets or easements shall not be approved except that lots developed on a private street in existence prior to the enactment of this Chapter may be approved. Private streets shall not normally be extended to permit additional lot development.

(Ord. 80, 1/24/1980, §403)

§405. Building Lines.

1. Building lines shall be in accordance with the terms of the Borough Zoning Ordinance [Chapter 27].

2. Accessory buildings may be placed no closer than five (5) feet from the side lot line in the rear yard.

3. Where such subdivision has existing buildings on either side, the building setback line for the new subdivision may be the average of the setback of existing buildings within one hundred fifty (150) feet.

(Ord. 80, 1/24/1980, §404)

§406. Blocks.

1. Block lengths shall not exceed one thousand (1,000) feet nor be less than five hundred (500) feet.

2. Blocks shall be at least two (2) lots in depth except for reverse frontage lots.

3. Exceptionally long blocks shall be provided with crosswalks with a minimum right-of-way reservation of twelve (12) feet and a four (4) foot paved walk.

4. The depth-to-width ratio of usable lot length shall be at a maximum of two and one-half (2 1/2) to one (1).

(Ord. 80, 1/24/1980, §405)

§407. Easements. Where desirable or expedient, adequate easements or dedications for public service utilities shall be provided for sewer, water, electric power and gas lines and similar services; and no structure or obstruction of any kind shall be placed where it will interfere in any way with an easement.

A. Utility easements shall have a minimum width of ten (10) feet and be placed at the side or rear of lots whenever possible. When conditions are suitable for essential services an easement reservation will be required.

B. Anchor easements shall be approximately four (4) by thirty (30) feet and placed on a lot line.

C. Aerial easements shall be a minimum of fifteen (15) feet.

(Ord. 80, 1/24/1980, §406)

§408. Sidewalks. Sidewalks and crosswalks, where required, shall be installed by the applicant along public streets where deemed necessary for public safety, as determined by the Planning Commission and Council. (Ord. 80, 1/24/1980, §407; as amended by Ord. 8/4/1992, 8/4/1992)

§409. Reserved Areas. Reserve strips surrounding the property or areas reserved for any purpose which shall make any area unprofitable for regular or special assessments or which may revert to untended nuisance areas, will not be approved by the Council. (Ord. 80, 1/24/1980, §408)

§410. Street Names. The subdivider may choose his street names subject to the approval of the Council. No street, other than an extension, may be given the name of an existing street in the municipality in which the subdivision is located. (Ord. 80, 1/24/1980, §409)

§411. Access. In subdividing land it shall be done in a manner that will not have the effect of debarring adjacent property owners from access to the streets and ways of the allotment. (Ord. 80, 1/24/1980, §410)

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Part 5

Improvements and Construction Requirements

§501. Introduction.

1. The construction of improvements in a subdivision is the responsibility of the applicant since it is his property which is being developed. Adequate streets, utilities and other improvements are essential elements in the creation and preservation of stable residential, commercial and industrial areas. Once the applicant disposes of the lots and the improvements are accepted by the local government, the responsibility of maintaining such improvements and correcting any construction errors falls on the local government. [Ord. 8/4/1992]

2. Any or all of the following improvements as may be required by the Council pursuant to the authority granted in the Pennsylvania Municipalities Planning Code, Act 247, as amended, considering the needs of the area in which the proposed subdivision is located; must have been completed in accordance with the requirements established by this Chapter as well as in accordance with the requirements of the responsible public authority affected, public officials or the Borough Engineer for that portion included in the final plat.

(Ord. 80, 1/24/1980, §500; as amended by Ord. 8/4/1992, 8/4/1992)

§502. Monuments. Monuments (survey markers) shall be placed at all block corners, angle, points, points of curves in streets and intermediate points as determined by the Borough Engineer and/or Council. Monuments shall be of such size, length and material as approved by the Borough Engineer and/or Council. (Ord. 80, 1/24/1980, §501)

§503. Utility and Street Improvements. Utility and street improvements shall be provided in each new subdivision in accordance with the standards and requirements described in the following schedules. (Ord. 80, 1/24/1980, §502)

§504. Water Supply.

1. The subdivider shall construct a system of water mains and connect with such public water supply system where a public water supply is available at plat boundary or within a reasonable distance thereto (one thousand (1,000) feet of subdivision). Standards and specifications established by the Beech Creek Water Authority shall apply.

2. If a public water supply system is not available under the conditions stated above, the subdivider may provide individual or community wells to serve twenty-five (25) or more units which shall be approved by the State Department of Environmental Resources.

3. Where individual wells provide a water supply in a large subdivision at least one test well shall be drilled in the proposed area for each fifty (50) lots or twenty-five (25) acres, whichever is smaller, or upon the requirements of the State Department of Environmental Resources. Test wells shall ordinarily be drilled to a reasonable depth which will produce safe potable water in sufficient quantity for the use

intended and shall be approved by the State Department of Environmental Resources.

4. All public water systems shall be laid wherever possible in the planting strip on the higher side of the street and constructed in accordance with the standards of the Beech Creek Water Authority, utility company, State Department of Environmental Resources or municipal department operating such water mains.

5. All phases of construction, including minimum size six (6) inch lines, excavation, trench, type pipe, backfill, hydrants, tees and valves shall be in accordance with approved construction drawings, State Department of Environmental Resources' standards and inspected by the Borough Engineer, his authorized representative or the authority or agency representative of the utility company during the entire construction period.

6. If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Borough Council that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, §503; as amended by Ord. 8/4/1992, 8/4/1992)

§505. Sanitary Sewers.

1. Council shall require for approval that the subdivider comply with standards and provisions set forth in the Pennsylvania Sewage Facilities Act of 1966, P.L. 1535, as amended, Chapters 71 and 73 of the Rules and Regulations of the Department of Environmental Resources.

2. The subdivider shall construct a sanitary sewer system and connect with such sewer main and provided lateral connections for each lot where a public sanitary sewer main is available at plat boundary or within a reasonable distance thereto (one thousand (1,000) feet of subdivision).

3. If a public sanitary sewer main is not available under the conditions stated above, the subdivision or area may be considered as one where it is necessary to construct a public or community disposal system, or other satisfactory method as approved by the State Department of Environmental Resources and the Council.

4. If, in the opinion of the Pennsylvania Department of Environmental Resources, the Borough Engineer and/or Council, factors exist which would create a public health and sanitation problem if a certain area is platted, the Council will not approve the subdivision and platting of such area until such factors are corrected by an adequate sanitary sewer system.

5. All sanitary sewers shall be constructed and installed according to the standards of the authority or municipal department operating such sewers. Storm water shall not be permitted to enter sanitary sewers.

6. All phases of construction, including excavation, trench, pipe

size, grade, backfill and manholes shall be in accordance with approved construction drawings, State Department of Environmental Resources requirements and inspected by the Council, its authorized representative, authority or health officer during the entire construction period.

7. In areas where a municipal sewer system is planned to be available but not yet built, laterals shall be extended to the center of the street or into the right-of-way and trunk lines provided to the edge of the subdivision closest to the municipal trunk location and capped. Until such time as a municipal sewer system becomes available, a project system must be installed. In the case of a project system, a trunk shall be provided to connect into the municipal system. [Ord. 8/4/1992]

8. The daily sewage flow for on-lot sewage disposal systems, utilizing subsurface absorption areas for final disposal of sewage affluent into the soil, shall not exceed ten thousand (10,000) gallons per day. No such system shall accommodate more than twenty-five (25) lots.

9. No French drains, sump pump drainage or surface draining of any type shall be connected to the public sanitary sewage system.

(Ord. 80, 1/24/1980, §504; as amended by Ord. 8/4/1992, 8/4/1992)

§506. Storm Sewers.

1. A drainage system adequate to serve the needs of the proposed new streets or the entire development will normally be required in new development. When a public storm sewer main is available at the plat boundary or within one thousand (1,000) feet, the applicant shall construct a storm sewer system and connect with such storm sewer main. [Ord. 8/4/1992]

2. Bridges or culverts shall be designed and constructed by the applicant where natural drainage channels intersect any street right-of-way. [Ord. 8/4/1992]

3. Where open watercourses are planned, adequate safety, erosion control, drainage (stagnant water), protection of capacity and appearance measures shall be taken by the applicant to insure proper, safe and healthful disposal of storm water. [Ord. 8/4/1992]

4. Minimum grade of drainage courses shall be designed to create a cleaning effect (velocity of five (5) feet per second) except that minimum cleaning effect (velocity of three (3) feet per second) may be permitted by the Borough Engineer and/or Council where greater grade cannot be achieved.

5. At intersecting streets, water in gutters and ditches shall be placed in adequate culverts.

6. Location of storm sewers shall be in accordance with existing systems or in accordance with standards suitable to the Borough Engineer and/or Council.

7. Storm sewers shall have a minimum diameter of fifteen (15) inches (or less depending upon the size and type of drain field) and a minimum grade of one-half (1/2) of one (1%) percent.

8. Manholes shall normally be spaced three hundred (300) feet apart where pipe sizes of twenty-four (24) inches or less are used, and not over four hundred fifty (450) feet where larger sizes are installed. Inlets

may, if approved by the Borough Engineer and/or Council, be substituted for manholes.

9. Special sections of ten (10) or fifteen (15) feet radii shall be installed where abrupt changes in direction are made.

10. Pipe or tile culverts shall normally be required under driveways and shall not be less than twelve (12) inches in diameter and sixteen (16) feet in length. Reinforced concrete or corrugated metal pipe may also be used and shall be laid so as to maintain the flow line of the open ditch.

11. All phases of construction of open ditches, gutters or storm sewers including width, depth, shapes, erosion control, minimum grade, size and area shall be in accordance with the requirements of this Chapter; and all storm drainage facilities shall be inspected and certified by the Council prior to being covered.

(Ord. 80, 1/24/1980, §505; as amended by Ord. 8/4/1992, 8/4/1992)

§507. Streets, Curbs, Base and Pavements.

1. Grading.

A. All streets shall be graded to the full width of the right-of-way and the adjacent side slopes graded to blend with the natural lay of the land, or in accordance with the cross-section presented, to the satisfaction of the Borough Engineer and/or Council. Where fill material is necessary to establish uniform grades, compacting shall be required in accordance with the standards established by the County and the Beech Creek Borough Council. A slope of two (2) horizontal to one (1) vertical beyond the right-of-way line, in cut or fill, shall ordinarily be required.

B. Street cross section for local and secondary streets shall be in accordance with the standards established by the Council. Where alternatives are available, the Council may designate the cross sections to be used on advice obtained from the Borough Engineer and/or the Pennsylvania Department of Transportation. All details of the cross section, crowns, curb, pavement, subgrade and roadside ditches, shall conform to the designated cross section. Primary street cross sections shall be as designed by a registered engineer and approved by the Council. (State approval required where necessary.)

2. Curbing.

A. Curbing shall be of asphalt concrete, or of a bituminous mix either straight, wedged, battered or rolled.

B. The requirement of curbs or curbs and gutters will vary in accordance with the character of the area and density of development involved.

(1) Curbs shall ordinarily be required where:

(a) Streets are designed to serve areas in which the net residential density of the area surrounding the proposed subdivision equals or exceeds three (3) families per acre.

(b) Commercial development or other similar intensive urban uses exist.

(c) If curbs exist on abutting property, the Council will ordinarily require their extension throughout the proposed development. [Ord. 8/4/1992]

(2) The Council may require curbs and gutters to be installed in residential areas if such construction is deemed necessary for public safety, control of water runoff or clearly defined driving and parking areas.

(3) When curbed streets are constructed, the space behind the curb shall be filled and graded to drain to the street at a slope of three-eighths (3/8) inch per foot.

3. Base Course. Six (6) inch thick (rolled measurement) native stone, limestone or crushed slag properly graded and meeting the requirements of the current specifications of the Pennsylvania Department of Transportation and subject to their complete tests shall be used. Lesser base courses, including asphalt concrete base, may be authorized by the Council on advice obtained from the Borough Engineer and/or the Pennsylvania Department of Transportation in lesser streets where the character of the drainage of the subgrade, the size of the subdivision and nature of the traffic warrants.

4. Pavements.

A. A one (1) inch ID2 wearing surface complying with the specifications of the Pennsylvania Department of Transportation shall be required with a five (5) inch asphalt concrete base.

B. Where concrete pavement is used, the standard requirements of the Pennsylvania Department of Transportation shall govern and all work shall be performed in the manner prescribed in the standard specifications for road construction of said Department, and shall be approved by the Borough Engineer and/or Council. Local streets shall be at least six (6) inches in thickness, and conform to other specifications of the Pennsylvania Department of Transportation.

C. Either type of pavement listed above must be approved by the Borough Engineer and/or Council and the Beech Creek Borough Committee on Highways. Said installation shall be under the direct supervision of the Borough Engineer and/or Beech Creek Borough Committee on Highways.

(Ord. 80, 1/24/1980, §506; as amended by Ord. 8/4/1992, 8/4/1992)

§508. Sidewalks.

1. Sidewalks shall be provided when considered necessary by the Council for protection of the public or wherever it is determined that the potential volume of pedestrian traffic or safety considerations require.

2. Sidewalks shall be provided where streets of a proposed development are extensions of existing streets having sidewalks on one (1) or both sides. [Ord. 8/4/1992]

3. Sidewalks will be normally required on both sides of the street except that the Council may authorize sidewalks on one (1) side only of the U-shaped streets, cul-de-sacs or where character of use does not require pedestrian access on both sides of the street.

4. The minimum width for sidewalks shall be four (4) feet, but the Council may require a greater width in the vicinity of shopping centers, schools and recreation facilities, or where similar intensive urban uses exist.

5. Sidewalks, where provided, shall be within the right-of-way and in residential areas, where conditions permit, two and one-half (2 1/2) feet from the edge thereof. Sidewalks should line up with adequate walks in adjoining subdivisions or developments.

6. Sidewalks shall be of portland cement concrete or approved material, a minimum four (4) inches thick at driveway crossings and a minimum two (2%) percent transverse slope from property line to curb to facilitate drainage.

7. All phases of construction, subgrade, concrete, form grade and thickness shall be in accordance with the requirements of this Part. The forms shall be inspected prior to pouring, and finished walks as well, by the Beech Creek Borough Committee on Highways and certified by the Borough Engineer.

(Ord. 80, 1/24/1980, §507; as amended by Ord. 8/4/1992, 8/4/1992)

§509. Street Signs. Street name signs shall be installed at each street intersection in accordance with standards established by the Council. (Ord. 80, 1/24/1980, §509)

§510. Street Trees. Should the subdivider plan to provide trees, their proposed locations, spacing and species must be submitted for approval to the Council and the Beech Creek Borough Tree Commission. On narrow rights-of-way or where the planting strip between the sidewalk and the curb is less than five (5) feet wide, trees will not be permitted, but are to be placed inside the property lines. (Ord. 80, 1/24/1980, §509)

§511. Existing Natural Conditions (Trees and Streams). In wooded areas or where other natural conditions exist, in such a manner that their presence adds to the desirability of a development, the Council shall require that the applicant preserve as much of the original trees and natural conditions as is economically feasible and require that a minimum of grading be done other than grading and excavating which is required in the construction of the improvements in accordance with the improvement standards included herein. (Ord. 80, 1/24/1980, §510; as amended by Ord. 8/4/1992, 8/4/1992)

§512. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval.

1. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be otherwise required by this Chapter and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this Chapter have been installed in accordance with this Chapter. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees otherwise required by this Chapter, the developer may deposit with the

Borough financial security in an amount sufficient to cover the costs of such improvements or common amenities including basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.

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

3. Without limitation as to other types of financial security which the Borough may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this Section.

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

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

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

7. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Borough, upon the recommendation of the Borough engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this

Commonwealth and chosen mutually by the Borough and the applicant or developer. The estimate certified by the third (3rd) engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third (3rd) engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough and the applicant or developer.

8. If the party posting the financial security requires more than one (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 ten (10%) percent for each one (1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding one hundred ten (110%) percent of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one (1) year period by using the above bidding procedure.

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

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

11. Where the Borough Council accepts dedication of all or some of the required improvements following completion, the Borough Council may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed eighteen (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 fifteen (15%) percent of the actual cost of installation of said improvements.

12. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Borough, financial

security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Section.

13. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this Section, the Borough 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.

(Ord. 80, 1/24/1980, §511; as amended by Ord. 8/4/1992, 8/4/1992)

§513. Release from Improvement Bond.

1. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Borough Council, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Borough engineer. The Borough Council shall, within ten (10) days after receipt of such notice, direct and authorize the Borough engineer to inspect all of the aforesaid improvements. The Borough engineer shall, thereupon, file a report in writing, with the Borough Council, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Borough engineer of the aforesaid authorization from the Borough Council; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Borough engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

2. The Borough Council shall notify the developer, within fifteen (15) days of receipt of the engineer's report, in writing by certified or registered mail of the action of said Borough Council with relation thereto.

3. If the Borough Council or the Borough engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

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

5. Nothing herein, however, shall be construed in limitation of the

developer's right to contest or question by legal proceedings or otherwise, any determination of the Borough Council or the Borough engineer.

6. Where herein reference is made to the Borough engineer, he shall be as a consultant thereto.

7. The applicant or developer shall reimburse the Borough for the reasonable and necessary expense incurred for the inspection of improvements according to a schedule of fees adopted by resolution of the Borough Council and as from time to time amended. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Borough engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Borough when fees are not reimbursed or otherwise imposed on applicants.

A. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within ten (10) working days of the date of billing, notify the Borough that such expenses are disputed as unreasonable or unnecessary, in which case the Borough shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.

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

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

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

E. The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by one thousand (\$1,000) dollars or more, the Borough shall pay the fee of the professional engineer, but otherwise the Borough and the applicant shall each pay one-half ($\frac{1}{2}$) of the fee of the appointed professional engineer.

(Ord. 80, 1/24/1980; as added by Ord. 8/4/1992, 8/4/1992)

§514. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in this Chapter or in accord with the approved final plat the Borough Council is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If the proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Borough Council may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other Borough purpose. (Ord. 80, 1/24/1980; as added by Ord. 8/4/1992, 8/4/1992)

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Part 6
Conditions of Acceptance

\$601. Recording Plats and Deeds.

1. Upon the approval of a final plat, the developer shall within ninety (90) days of such final approval record such plat in the office of the recorder of deeds of the county in which the Borough is located. The recorder of deeds shall not accept any plat for recording unless such plat officially notes the approval of the Borough Council, and review by the county planning agency.

2. The recording of the plat shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plat.

(Ord. 80, 1/24/1980, \$600; as amended by Ord. 8/4/1992, 8/4/1992)

\$602. Specific Conditions.

1. The Council shall not approve any plat except in conformance with the provisions of this Chapter. [Ord. 8/4/1992]

2. The Council may specify alterations, changes or modifications in any plat which it deems necessary and may make its approval subject to such alterations, changes or modifications. [Ord. 8/4/1992]

3. No road, street, land, way or related improvement shall be accepted as a part of the highway system of the local municipality in which the subdivision is located or for maintenance unless opened, laid out, graded and improved in strict accordance with the standards and regulations of the Committee on Highways.

4. Before acting to approve any plat, the Council may arrange a public hearing thereon, after giving such notice as may be deemed desirable. [Ord. 8/4/1992]

(Ord. 80, 1/24/1980, \$601; as amended by Ord. 8/4/1992, 8/4/1992)

\$603. Exemptions. The following are exempt or partially exempt from the provisions of this Chapter:

A. The conversion of an existing single-family detached dwelling or single family semi-detached 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 or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

(Ord. 80, 1/24/1980; as added by Ord. 8/4/1992, 8/4/1992)

§604. Effect of Plat Approval on Official Map. After a plat has been approved and recorded as provided in this Chapter, all streets and public grounds on such plat shall be, and become a part of the official map of the Borough without public hearing. (Ord. 80, 1/24/1980; as added by Ord. 8/4/1992, 8/4/1992)

Part 7

Fees

§701. Fee to Accompany Application for Review and Approval of Plats.

1. All applications submitted for the review and approval of plats of subdivision and plans of land development prepared in preliminary form shall be accompanied by a fee in accordance with a schedule of fees and charges established, or to be established, and adopted by resolution of the Council to defray or to help defray any cost that may be incurred by the Borough in viewing and inspection of the site of the subdivision, or land development, and reviewing the application, data and the plans submitted relative to the same.

2. The schedule of fees and charges established or to be established shall vary, and be regulated in accordance to the scope and complexity of the plan of subdivision and land development project, such as (a) number of parcels or lots in plan, (b) site development plans, (c) utility development plans, (d) applicants plan of construction and development of the land, structures and facilities thereon, and appurtenant thereto, (e) number of times that a plan is submitted or resubmitted for review and request is made for approval of the same.

3. Where a plan of subdivision or land development for any reason has been rejected by the Planning Commission and Council, the applicant, when resubmitting plans and application for review and approval of the same, shall be required to pay a fee as set forth in the Borough's schedule of fees and charges for such submittals.

4. All fees shall be made payable to the Borough of Beech Creek. All fees submitted are nonrefundable, and the approval or rejection for any reason of any plan of subdivision or land development will not be reason or cause for the return of any fee submitted.

5. Review Fees.

A. Review fees shall include the reasonable and necessary charges by the Borough's professional consultants or engineer for review and report to the Borough, and shall be set by resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Borough engineer or consultant for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Borough when fees are not reimbursed or otherwise imposed on applicants.

B. In the event the applicant disputes the amount of any such review fees, the applicant shall, within ten (10) days of the billing date, notify the Borough that such fees are disputed, in which case the Borough shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees.

C. In the event that the Borough and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the fees shall be recalculated and recertified by another professional

(XXII, sec. 701, cont'd)

engineer licensed as such in this Commonwealth and chosen mutually by the Borough and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Borough and the applicant or developer.

[Ord. 8/4/1992]

(Ord. 80, 1/24/1980, \$700; as amended by Ord. 8/4/1992, 8/4/1992)

Part 8

Certificates, Affidavits, and Approvals

§801. Certificates, Affidavits, and Approval. The certificates quoted below shall be inscribed on the final plat as presented, and shall be properly signed and attested when the plat is submitted to the Council for action. All certificates shall be placed on the final plat in an arrangement suitable for placement of all required seals.

OWNERS ADOPTION

We, the undersigned, do hereby adopt this plat and do hereby dedicate and release forever for public use, enjoyment and benefit all streets, roads, drives, etc., as shown on this plat.

Witness our hands and seals this _____ day of _____, 19____,

STATE OF PENNSYLVANIA
COUNTY OF CLINTON

ss:

On this _____ day of _____, 19____, before me, a Notary Public, in and for said County and State, personally appeared the above named, _____ and acknowledge the foregoing plat to be their act and deed and desire the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

BEECH CREEK BOROUGH PLANNING COMMISSION REVIEW

The plan and plat of subdivision and/or land development have been reviewed by the Beech Creek Borough Planning Commission and comments presented and recorded in the minutes of the meeting on this _____ day of _____, 19____,

Secretary

Chairperson

CLINTON COUNTY PLANNING COMMISSION REVIEW

The plan and plat of subdivision and/or land development have been

(XXII, sec. 801, cont'd)

reviewed by the Clinton County Planning Commission and comments presented by letter to the Beech Creek Borough Secretary on this _____ day of _____, 19____,

Secretary

Chairperson

BEECH CREEK BOROUGH COUNCIL APPROVAL

The plan and plat of subdivision and/or land development has been approved by the Beech Creek Borough Council on this _____ day of _____, 19____.

Secretary

Chairperson

PROOF OF RECORDING

STATE OF PENNSYLVANIA
COUNTY OF CLINTON

ss:

Recorded in the office of the Recorder of Deeds of Clinton County and the State of Pennsylvania in Plan Book Vol. _____ Page _____ this day of _____ a.d., 19____.

Witness my hand and Seal.

Recorder of Deeds

ENGINEER OR SURVEYOR CERTIFICATION

I, _____, a registered professional engineer or Registered Surveyor of the State of Pennsylvania, do hereby certify that this correctly represents the lots, land, and streets as surveyed and lotted by me for the Owners or Agents.

(Ord. 80, 1/24/1980, Article 8; as amended by Ord. 8/4/1992, 8/4/1992)

Part 9

Administration and Modification

§901. Changes. The Council may from time to time revise, modify and amend this Chapter by appropriate action taken at a scheduled meeting. This action should be made on recommendation of the Planning Commission. (Ord. 80, 1/24/1980, §901)

§902. Modifications.

1. The Borough Council may grant a modification of the requirements of one (1) or more provisions of this Chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Chapter is observed.

2. All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this Chapter involved and the minimum modification necessary.

3. The request for modification shall be referred to the Planning Commission for advisory comments.

4. The Borough Council shall keep a written record of all action on all requests for modifications.

(Ord. 80, 1/24/1980, §902; as amended by Ord. 8/4/1992, 8/4/1992).

§903. Amendments.

1. Amendments to this Chapter shall become effective only after a public hearing held pursuant to public notice. A brief summary setting forth the principal provisions of the proposed amendment and a reference to the place within the Borough where copies of the proposed amendment may be secured or examined shall be incorporated in the public notice. Unless the proposed amendment shall have been prepared by the Planning Commission, the Borough Council shall submit the amendment to the Planning Commission at least thirty (30) days prior to the hearing on such amendment to provide the Planning Commission an opportunity to submit recommendations. In addition, at least thirty (30) days prior to the public hearing on the amendment, the Borough shall submit the proposed amendment to the County planning agency for recommendations.

2. Within thirty (30) days after adoption, the Borough Council shall forward a certified copy of the amendment to the County planning agency.

3. Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this Section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed amendment once in a newspaper of general circulation in the

Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

A. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.

B. An attested copy of the proposed amendment shall be filed in the County law library (or other County office designated by the County Commissioners).

4. In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one (1) newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(Ord. 80, 1/24/1980; as added by Ord. 8/4/1992, 8/4/1992)

§904. Preventive Remedies.

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

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

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

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

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

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

3. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough 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. 80, 1/24/1980, §904; as amended by Ord. 8/4/1992, 8/4/1992)

§905. Enforcement Remedies.

1. Any person, partnership or corporation who or which has violated the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500.00) dollars plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating this Chapter 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 (5th) day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

2. 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.

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

4. District justices shall have initial jurisdiction in proceedings brought under this Section.

(Ord. 80, 1/24/1980, §904; as amended by Ord. 8/4/1992, 8/4/1992)

