

**NORTH NEWTON TOWNSHIP  
SUBDIVISION AND LAND DEVELOPMENT ORDINANCE**

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**NORTH NEWTON TOWNSHIP**  
**CUMBERLAND COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. 2009-2**

AN ORDINANCE OF NORTH NEWTON TOWNSHIP REGULATING THE SUBDIVISION AND DEVELOPMENT OF LAND INCLUDING MOBILE HOME PARKS WITHIN THE TOWNSHIP OF NORTH NEWTON, CUMBERLAND COUNTY, PENNSYLVANIA, PROVIDING FOR THE PREPARATION OF PRELIMINARY AND FINAL PLANS FOR SUCH PURPOSE; REQUIRING CERTAIN IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE SUBDIVIDER AND DEVELOPER; REGULATING SALES OF LOTS, ERECTION OF BUILDINGS, LAYING OUT, CONSTRUCTION, OPENING AND DEDICATION OF STREETS, SEWERS, OTHER FACILITIES, AND PUBLIC IMPROVEMENTS IN CONNECTION WITH SUBDIVISIONS, AND LAND DEVELOPMENTS AND PRESCRIBING PENALTIES FOR THE VIOLATIONS THEREOF.

BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Board of Supervisors of North Newton Township that the North Newton Township Subdivision and Land Development Ordinance enacted on April 1, 1974 as amended, is further amended by adding and supplementing thereto the following revised Ordinance, all pursuant to the Pennsylvania Municipalities Planning Code of 1968, as amended, (Act 247 of 1968, P.L. 805, as amended by Act 170 of 1988):

**ARTICLE 1**

**PURPOSES AND INTERPRETATION**

**Section 101. Title**

This Ordinance shall be known and may be cited as "The North Newton Township Subdivision and Land Development Ordinance."

**Section 102. Purpose**

This Ordinance is adopted by the North Newton Township Board of Supervisors to protect the health, safety and general welfare of the citizens of the Township; to provide for the harmonious development of the Township by insuring equitable handling of all subdivisions or land development plans by providing uniform standards and procedures; to provide for the general welfare by providing and protecting cultural facilities and environmental features; by guiding the development and growth of structures, types and locations of streets, open spaces and public grounds, recreation, proper traffic flows, light and air, and the proper distribution of

population to insure conditions favorable to the health, safety and general welfare of the citizens of the Township.

**Section 103. Authority**

The Planning Commission is hereby designated by the Board of Supervisors as the agency which shall review and make recommendations on all Preliminary and Final Plans as required herein. The Board of Supervisors shall have authority to approve all Preliminary and Final Plans as required herein for the Township.

**Section 104. County Review**

Applications for review of subdivision and land development within North Newton Township must be forwarded to the Cumberland County Planning Commission along with the required fee for review and report, and the Township shall not approve such applications until the county report is received, or until the expiration of thirty (30) days from the date the application was forwarded to the County.

**Section 105. Application of Regulations**

- A. No subdivision or land development of any lot, tract, or parcel of land located in North Newton Township shall be effected; no street, sanitary 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 the buildings thereon unless and until a final subdivision plan has been approved by the Board of Supervisors and publicly recorded in the manner prescribed herein; nor otherwise – except in strict accordance with the provisions of this Ordinance. All improvements, whether they may be considered public or private, shall comply with the terms of this Ordinance.
  
- B. 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 plan has been approved by the Board of Supervisors and recorded, and until construction of the improvements required in connection therewith has been guaranteed in the manner prescribed herein.

## **Section 106. Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the environment, public health, safety, comfort, convenience, and general welfare of the Township and its citizens. It is not intended by this Ordinance to interfere with or abrogate or annul any rules or regulations previously adopted or permits previously issued by the Township which are not in conflict with any provisions of this Ordinance.

Nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, building restrictions, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such ordinances, rules, regulations, or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control. Where, due to inherent ambiguity, vagueness or lack of clarity in the language of this Ordinance, a reasonable doubt exists as to the meaning of any restriction upon the use of land, said doubt shall be resolved in favor of the property owner and against any implied extension of a restriction.

Where the provisions of a statute, other ordinance, resolution, or regulation impose greater restrictions than this Ordinance, the provisions of such statute, resolution, ordinance, or regulation shall be controlling.

## **Section 107. Effective Date**

This Ordinance shall become effective in accordance with applicable law and may be amended from time to time in accordance with procedure established by law.

## **Section 108. Repealer**

Any resolution, ordinance, or part of any ordinance or resolution inconsistent herewith, and any amendment thereof, to the extent of such conflict and no further, are hereby expressly repealed.

## ARTICLE 2

### DEFINITION OF TERMS

#### 201. Rules of Interpretation

The following words are defined in order to facilitate the interpretation of the Ordinance for administrative purposes and in the carrying out of duties by appropriate officers. Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations have the meaning indicated:

- A. Words in the singular include the plural and those in the plural include the singular.
- B. Words used in the present tense include the future tense.
- C. The words "person", "Subdivider", "Developer", and "Owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subdivision of land and/or land development.
- D. The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof".
- E. The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
- F. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive.
- G. The word "lot" includes the word plot or parcel.
- H. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

## **202. Terms Defined**

Other terms or words used herein shall be interpreted or defined as follows:

### **Abutting.**

"Abutting" means having a common border with, or being separated from such common border by an alley or easement.

### **Access.**

"Access" means a means of vehicular approach or entry to or exit from property.

### **Accessory Building or Use.**

A building or use which:

- A. Is clearly incidental to and customarily found in connection with a principal building or use;
- B. Is subordinate to and serves a principal building or a principal use;
- C. Is subordinate in area, extent, or purpose to the principal building or use served;
- D. Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- E. Is located on the same lot as the principal building or use served.

Mobile homes, buses, recreational vehicles or trailers, campers, trucks or truck trailers shall not be considered as accessory buildings, regardless of whether they retain wheels or axles, or whether they are considered immobile.

### **Alley (or service drive).**

A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties not intended for general traffic circulation.

**Applicant.**

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

**Application for Development.**

Every application, whether Minor, Preliminary, or Final, required to be filed and approved prior to start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan, or for the approval of a land development plan.

**Block.**

"Block" means a piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.

**Building.**

"Building" means a structure built, having a roof supported by columns or walls and intended for shelter, housing, or enclosure of persons, animals, or property, and including carports, covered porches or bay windows, and chimneys. The term is inclusive of any part thereof.

**Building Setback Line.**

The line within a property defining the required minimum distance between any building or structure and the front, side or rear property line. It shall be a straight line parallel to the front, side or rear property line of rectilinear lots. On a curvilinear lot, the building setback line shall be radial to the arc. No point on the parallel to the tangent shall be a distance less than the minimum setback distance. On a panhandle or flag lot, the building setback line shall be measured from the point where the "panhandle" joins the interior portion of the lot.

**Cartway.**

That portion of a street or alley which is improved, designated, or intended for vehicular use, excluding the shoulders.

### **Clear-Sight Triangle.**

A triangle shaped area of unobstructed vision at street intersections and driveway entrances in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight of a motorist turning onto or crossing a street. It is defined by lines of sight between points at a given distance from the intersection of the street and/or driveway centerlines.

### **Clear-Sight Distance.**

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

- A. Passing Sight Distance. A line of unobstructed vision from the height of a driver's eye, three and one-half (3.5) feet above the surface of a roadway, to see an object on the roadway at a height of three and one-half (3.5) feet high.
- B. Stopping Sight Distance. A line of unobstructed vision from the height of a driver's eye, three and one-half (3.5) feet above the surface of a roadway, to see an object on the roadway at a height of one-half (0.5) feet high.
- C. Driveway Entrances. A line of unobstructed vision from which a driver's eye at a driveway entrance, three and one-half (3.5) feet above the surface of the driveway, can continuously see an approaching vehicle, four and one-quarter (4.25) feet above the surface of the roadway. The required clear sight distance shall be determined using Penn D.O.T. requirements found in the most recent edition of PA Code 67; Chapter 441; Section 1.8, ADriveway Design Requirements; Subsection (h), ASight Distance; using the applicable criteria including speed limit, road grade, Ψetc.

### **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.

### **Construction.**

"Construction" means the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure

including the placement of mobile homes.

**County.**

Cumberland County, Pennsylvania.

**County Planning Commission.**

The Cumberland County Planning Commission.

**Cul-de-sac.**

"Cul-de-sac" means a minor street intersecting another street at one end and terminated at the other by a vehicular turnaround.

**Cut.**

"Cut" means an excavation, the difference between a point on the original ground and a designated point of lower elevation on the final grade, and also means the material removed in excavation.

**Dedication.**

The deliberate appropriation of land by its owner for any general and public, or limited public, uses, reserving to himself no other rights than those compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**Developer.**

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

**Development.**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, mining, dredging, filling, grading, excavation or drilling operations, and the subdivision of land.

**Development Plans.**

The provisions for the development of a tract of land 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 the development plan" when used in this ordinance shall mean the written and graphic materials referred to in this definition.

A development plan may be carried out in a single phase, or in a series of specifically defined phases.

**Drainage.**

"Drainage" means the flow of water or liquid waste and the removal of surface water or groundwater from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or alleviation of flooding.

**Drainage Facility.**

"Drainage facility" means any ditch, gutter, culvert, storm sewer, basin, or other structure designed, intended or constructed for the purpose of diverting surface waters from, or carrying surface waters off streets, public rights-of-way, parks, recreational areas or any part of any subdivision or contiguous land area.

**Driveway.**

"Driveway" means an improved vehicular access from a street to a parking area or garage within a lot or property.

**Dwelling.**

A building or structure designed for living quarters for one (1) or more families, including mobile homes which are supported by a permanent foundation or anchored, but not including tents, cabins, travel trailers, motels, hotels, rooming houses, boarding homes, convalescent homes or other accommodations used for transient occupancy.

**Dwelling Unit.**

"Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Earthmoving Activity.**

Any construction or other activity which disturbs the surface of the land including, but not limited to, excavation, embankments, land development, subdivision development, mineral extraction, and the moving, depositing or storing of soil, rocks, or earth.

**Easement.**

A right granted for the use of private land for certain public, quasi-public or private purposes; also the land to which such right pertains.

**Echo Housing**

An additional dwelling unit placed on a property for occupancy by either an elderly, handicapped, or disabled person related by blood, marriage, or adoption to the occupant of the principal dwelling.

**Energy Dissipater.**

"Energy dissipater" means a device used to slow the velocity of storm water, particularly at points of concentrated discharge such as pipe outlets.

**Engineer, Township.**

The Township Engineer or any consultant designated by the Board of Supervisors to review a subdivision plan and perform the duties of engineer on behalf of the Township.

**Engineer, Registered.**

A person duly registered as a professional engineer by the State of Pennsylvania.

**Erosion.**

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

**Erosion and Sedimentation Control Plan.**

A plan which is designed to minimize erosion and prevent sediment pollution to the waters of the Commonwealth.

**Excavation.**

Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

**Fill.**

"Fill" means the sand, gravel, earth or other material placed or deposited such as to form an embankment or raise the elevation of the land surface.

**Flood.**

A temporary inundation of normally dry land areas.

**Floodproofing.**

Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Grade, Established.**

Established grade $\cong$  means the elevation of the centerline of the streets as officially established by the Township authorities, or as surveyed and recorded on a plat of record.

**Grade, Finished.**

Finished grade $\cong$  means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

**Grassed Waterway.**

Grassed waterway $\cong$  means a natural or man-made drainage way of parabolic or

trapezoidal cross-section shaped to required dimensions and vegetated for safe disposal of runoff, and is also known as a swale.

### **Half or Partial Street.**

A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.

### **Impervious Cover.**

Any natural or man-made material utilized to cover, pave, re-surface or compact any portion or area of a lot, so as to substantially reduce or prevent the infiltration of stormwater into the ground beneath it. It includes surfaces such as compacted clay, any form or mixture of concrete, asphalt, tar or similar substances, as well as roof areas of buildings and other structures.

### **Improvements.**

Those physical additions, installations, and changes required to render land suitable for the use intended, including but not limited to, grading, paving, curbing, street lights and signs, fire hydrants, water lines, electric service, sanitary sewers, storm water management facilities, sidewalks, recreational facilities, street trees and buffer or screen plantings. Those physical additions and changes to the land that may be necessary to produce usable and desirable lots.

### **Land Development.**

Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving (1) a group of two or more residential or nonresidential buildings, or a telecommunication antenna or tower, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or (2) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features;
- B. A subdivision of land;
- C. Any improvement(s) since July 2007 that cumulatively create an area of impervious surface on the parcel of ten thousand (10,000) square feet or more.

- D. Excluding (1) the conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium: (2) the addition of an accessory building, including farm buildings, 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 purposes of this subclause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

**Landowner.**

The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this act.

**Lot.**

A designated parcel, tract or area of land established by a plat or otherwise permitted by law, to be used, developed or built upon as a unit.

**Lot Area.**

The area contained within the property lines of a lot as shown on a subdivision or land development plan excluding space within any public right-of-way, but including the area of any easement.

**Lot, Corner.**

A "Corner Lot" is at the junction of and abutting on two (2) or more intersecting streets or private roads or at the point of abrupt change of a single street or private road, where the interior angle is less than one hundred thirty-five (135) degrees and the radius of the street or private road line is less than one hundred (100) feet.

**Lot Depth.**

Depth of lot means the mean horizontal distance between the street line and rear

lot line, measured along the mean direction of the sidelines of the lot. On a panhandle or flag lot, the depth of the Apanhandle access shall be excluded from the calculation of lot depth.

**Lot, Double Frontage.**

An interior lot having frontage on two (2) streets.

**Lot Frontage.**

The minimum distance between side property lines measured along the adjoining street right-of-way, or private right-of-way.

**Lot, Interior.**

A lot other than a corner lot.

**Lot Line.**

ALot line means a line bounding a lot which divides one lot from another or from a street or any other public or private space.

**Lot Line, Rear.**

ARear lot line means that lot line which is parallel to and most distant from the front lot line of a lot; in the case of an irregular, triangular or gore-shaped lot, a line twenty feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

**Lot Line, Side.**

ASide lot line means any lot line other than a front or rear lot line.

**Lot of Record.**

ALot of record means any lot validly recorded with the Recorder of Deeds of Cumberland County, Pennsylvania which at the time of its recordation complied with all applicable laws, ordinances and regulations.

**Lot Width.**

ALot width $\cong$  means the mean horizontal distance between the side lot lines measured at the minimum building setback line. Where there is only one side lot line, lot width shall be measured between such lot line and the opposite lot line or future right-of-way line. The width of a lot on a cul-de-sac is measured as the chord distance length at the minimum building setback line.

### **Mobile Home or Manufactured Home.**

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 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.

### **Mobile Home/Manufactured Home Court or Park.**

Any site, lot or tract of land under single ownership, upon which two or more authorized mobile homes are parked permanently or temporarily, either free of charge or for revenue purposes, and shall include any appurtenant facilities used or designed as part of the equipment of such mobile home court or park.

### **Mobile Home/Manufactured Home Subdivision.**

An area designed exclusively for mobile homes/manufactured homes and mobile dwelling units where lots are not rented but sold.

### **Municipality.**

The municipal corporation known as North Newton Township, Cumberland County, Pennsylvania, and all lands therein.

### **Obstruction.**

Any wall, dam, wharf, embankment, levee, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter, in, along, across, or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or is placed where the flow of the water might carry the same downstream causing damage of life and

property.

### **Occupancy, Mixed.**

A Mixed occupancy  $\cong$  means occupancy of a building or land for more than one use.

### **Official Plan for Liquid Waste Disposal, or Official Sewage Plan.**

A comprehensive plan for the provisions of adequate sewage systems, adopted by a municipality or municipalities possessing authority or jurisdiction over the provision of the systems, and submitted to, and approved by, the Department of Environmental Protection as provided by the Pennsylvania Sewage Facilities Act (537), and Chapter 71, Rules and Regulations promulgated thereunder.

### **One hundred (100) Year Flood.**

A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., a flood that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

### **On-Site Storm Water Management (Plan).**

A On-site storm water management  $\cong$  means the control of runoff to allow water falling on a given site to be absorbed or retained on site; to the extent that after development, the peak rate of discharge leaving the site is not significantly different than if the site had remained undeveloped.

### **On-Site Subsurface Sewage Disposal System.**

(or, Individual On-Lot Sewage System) A system of piping, tanks or other facilities serving a single lot and collecting, treating and disposing of sewage into a subsurface absorption area or a retaining tank.

### **Owner.**

A Owner  $\cong$  means the person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase, a lot or parcel of land.

**Panhandle Lot.**

A lot that is connected to a public street by a fifty (50) foot wide strip of land that is a part of the lot but that is not used in determining the applicable minimum lot area requirement. The lot area of a Panhandle Lot shall be calculated by using only that portion of the lot that satisfies the minimum lot dimensions.

**Parcel.**

A Parcel  $\cong$  means a lot, or contiguous group of lots, in single ownership or under single control, and usually considered a unit for purposes of development.

**Parking Spaces.**

An off-street space available for the parking of a motor vehicle and which, in this ordinance, is held to be an area nine (9) feet wide and eighteen (18) feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

**Percolation Test.**

A procedure to determine the absorption rate of the soil in an area proposed as the installation site for an on-lot septic system. Such a test will be carried out according to the requirements of the Pennsylvania Department of Environmental Protection and shall be conducted by the Township Sewage Enforcement Officer or Sanitarian.

**Permanent Survey Moument**

A concrete monument used for marking property corners.

**Plan, Final.**

A complete and exact subdivision plan, requiring the approval of the Board of Supervisors, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

**Plan, Minor.**

A subdivision plan requiring the approval of the Board of Supervisors, containing not more than five (5) lots, which does not propose the construction of public or private streets or other public improvements, and does not propose the establishment of

new public easements or rights-of-way; or, a land development plan which contains not more than five (5) residential dwelling units, or not more than one (1) non-residential structure with not more than five (5) prospective occupants located on a parcel of land totaling not more than five (5) gross acres in size.

**Plan, Preliminary.**

A formal, tentative subdivision or land development plan, requiring approval of the Board of Supervisors, which is used as a basis for consideration of a Final Plan. A Preliminary Plan is not a final plan of record.

**Plan, Sketch.**

An informal plan, requiring no approvals, which indicates salient existing features of a tract and its surroundings and the general layout of a proposed subdivision or land development.

**Planning Commission**

The Planning Commission of North Newton Township, Cumberland County, Pennsylvania.

**Preliminary Soil Analysis.**

A procedure to permit visual inspection of soil characteristics, geological formations and water table level in an area proposed as the installation site for an on-lot septic system. Such tests shall consist of a trench which shall be two (2) feet wide and seven (7) feet deep or four (4) feet below the proposed installation level of the septic field, whichever is deeper. Such tests may be referred to as a "Deep Probe" or inspection trench and shall be open for inspection by the Township Sewage Enforcement Officer or Sanitarian and the Department of Environmental Protection.

**Public Hearing.**

A formal meeting held pursuant to public notice by the Board of Supervisors or the Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with appropriate procedures and laws.

## **Public Improvement**

“Public improvement” means any improvement, facility or service together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: vehicular and pedestrian circulation systems; storm sewers; flood control improvements; water supply and distribution facilities; sanitary sewage disposal and treatment; and public utility and energy services.

## **Public Notice.**

Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. 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 be not more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

## **Report.**

Any letter, review, memorandum, compilation of similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

## **Right-of-Way.**

An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

## **Runoff.**

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

**Screening.**

The use of plants, landscaping materials, fencing, walls and/or earthen berms to aid in the concealment of such features as parking areas or open storage areas, and to provide privacy between two or more different land uses which abut one another.

**Secretary.**

The Township Secretary of North Newton Township.

**Sedimentation.**

“Sedimentation” means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a result of erosion.

**Sediment Basin.**

“Sediment basin” means a temporary dam or barrier constructed across a waterway or at other suitable locations to intercept the runoff and to trap and retain the sediment.

**Sewage Enforcement Officer (SEO).**

The official of the Township who issues permits, reviews permit applications and sewage facilities planning modules and conducts investigations and inspections necessary to implement the Pennsylvania Sewage Facilities Act and the regulations thereunder.

**Sewage Facilities.**

A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste.

- A. Community Sewage System. A sewage facility, privately owned, for the collection of sewage from two (2) or more lots, or two (2) or more equivalent dwelling units (EDU's), and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.
- B. Public Sewage System. A sewage facility, owned and operated by a municipal agency or a public company controlled by the Pennsylvania

Public Utility Commission, for the collection of sewage from two (2) or more lots, or two (2) or more equivalent dwelling units (EDU's), and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

**Shoulders.**

The portion of the street, contiguous to the cartway, for the accommodation of stopped vehicles, for emergency use or parking, or for lateral support of base and surface courses of the pavement.

**Sketch Plan.**

A voluntary, non-binding schematic plan submitted for informational purposes only.

**Slope.**

The face of an embankment or cut section; or any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per one hundred (100) feet of horizontal distance.

**Soil Percolation Test.**

A field test conducted to determine the absorption capacity of soil to be a specified depth in a given location for the purpose of determining suitability of soil for on site sewage disposal.

**Soil Stabilization.**

Chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise improve its engineering properties.

**Storm Water.**

Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

**Storm Water Management.**

The control of storm water runoff on a given site.

**Storm Water Management Plan.**

A plan or design for controlling storm water so that it will preclude erosion or flooding and/or the adverse effects of storm water from impervious areas, as required by Section 911 of this Ordinance.

**Stormwater Detention Structure.**

A vegetated pond, swale, or other structure designed to drain completely after storing surface water runoff for a given storm event, and release it at a predetermined rate.

**Stormwater Retention Basin.**

“Retention basin” means a pond containing a permanent pool of water designed to store runoff from a given storm event.

**Street.**

Any street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or other way, whether public or private, used or intended to be used by vehicular traffic or pedestrians.

**Street, Private.**

A strip of land, including the entire right-of-way, intended for use as a means of vehicular and pedestrian circulation, but not intended to be dedicated for public use.

**Street, Public.**

A strip of land, including the entire right-of-way, intended to be dedicated for use as a means of vehicular and pedestrian circulation by the public at large and accordingly ordained by the Board of Supervisors.

**Street Line or Street Right-of-Way Line.**

A line defining the edge of an existing or contemplated street right-of-way and which separates the street from abutting property or lots. The street line shall be the same as the legal right-of-way line. Where a definite right-of-way width has not been established, the street line shall be assumed to be at a point twenty-five (25) feet from the centerline of the existing street.

**Street Width.**

“Street width” means the distance between right-of-way lines measured at right

angles to the centerline of the street.

**Structure**

“Structure” means any man-made object having an ascertainable stationary location on or in land or water, including in-ground and aboveground swimming pools, whether or not affixed to the land.

**Subdivider.**

The owner, developer or the authorized agent of the owner of a subdivision or land development.

**Subdivision.**

The division or re-division 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.

**Substantially Completed.**

Where, in the judgement of the Township Engineer, at least ninety percent (90%) (based on the cost of the required improvements for which financial security was posted) 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.

**Surface Drainage Plan.**

A plan showing all present and proposed grades and facilities for stormwater drainage.

**Surveyor, Registered or Surveyor, Professional Land.**

A person duly registered as a professional surveyor by the Commonwealth of Pennsylvania.

**Swale.**

A low-lying stretch of land, characterized as a depression, used to carry surface

water runoff.

**Time of Concentration.**

The interval of time required for water from the most remote portion of the drainage area to reach the point in question.

**Topsoil.**

Surface soils and subsurface soils which are presumably fertile, containing material ordinarily rich in organic matter or humus debris. Topsoil is usually found in the uppermost soil layer, or horizon.

**Total Tract Area.**

The land area contained within the boundaries of a tract, exclusive of the areas of such permanent easements as are associated with overhead power transmission lines and underground pipelines, and land within the right-of-way of existing public roads that are present on the land at the time of development.

**Township.**

The Township of North Newton, Cumberland County, Pennsylvania, Board of Supervisors, its agents or authorized representatives.

**Water System, Community.**

A system for supplying and distributing potable water from a common source(s) to two (2) or more dwellings and/or other buildings within a neighborhood area, such system being privately owned.

**Water System, Public.**

A system for supplying and distributing potable water from a common source(s) to two (2) or more dwellings and/or other buildings which is owned and operated by a municipal agency or a public company controlled by the Pennsylvania Public Utility Commission.

**Watercourse.**

“Watercourse” means a stream of water, river, brook, creek or a channel or ditch for

water, whether natural or man-made having a defined bed and banks, and whether its flows are perennial or intermittent.

**Waters of the Commonwealth.**

Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels or conveyance of surface and underground waters, or parts thereof, whether natural or artificial, within or on the boundaries of the Commonwealth of Pennsylvania.

**Watershed.**

The entire region or area drained by a river or other body of water whether natural or artificial.

**Wetland.**

Areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Yard.**

An open space, unoccupied and unobstructed from the ground upward, as may be required by this ordinance, which open space lies between the principal building or group of buildings and the nearest lot line of unrelated property.

**ARTICLE 3  
CONTROL OF SUBDIVISIONS AND LAND DEVELOPMENT,**

**RECORDING OF PLANS, DEDICATIONS OF PROPERTY  
AND IMPROVEMENTS**

**Section 300. Control of Subdivisions and Land Developments.**

- A. From and after the effective date of this ordinance no subdivision or development of any lot, tract, or parcel of land within the Township shall be made, and no street, sanitary sewer, storm sewer, water main or other facility in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of this Ordinance.
  
- B. No lot in a subdivision or land development may be sold, no building may be erected and no changes may be made in the contour of the land; no grading, excavating, removal or destruction of the topsoil, trees or other vegetative cover of the land may be commenced in a subdivision or land development unless and until a plan for the subdivision or land development has been approved by the Board of Supervisors and recorded, and until the improvements required by the Board of Supervisors in connection therewith have either been constructed in strict accordance with the standards and specifications of the Township or guaranteed as provided in Article 14 of this Ordinance.
  
- C. Said standards and specifications, particularly as are presented in Article 9 of this Ordinance are declared to be a minimum guarantee that all streets shown on any proposed plan are of sufficient width and proper grade and so located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access for firefighting equipment to buildings and provide a coordinated system of streets; and further, that the land whereon buildings are to be constructed is of such character that it can be used for building purposes without danger to health or peril from fire, flood or other hazard, and that all necessary or required erosion and sedimentation control facilities will be installed prior to or during the initial phase of construction of the subdivision or land development.
  
- D. Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, the Board of

Supervisors may, on the basis of an approved Preliminary Plan, make such reasonable exception thereto as will not be contrary to the public interest and may permit the sale of a lot, issuance of a permit, or erection of a building, subject to conditions necessary to assure adequate streets and other public improvements.

**Section 301. Recording of Final Plans and Dedication of Property and Improvements.**

- A. Upon approval of a Final Plan, the developer shall within ninety (90) days of such final approval record such plan in the office of the Recorder of Deeds of Cumberland County, and the streets, parks, erosion and sedimentation and stormwater management control facilities and other public improvements shown thereon shall then be considered to be a part of the Official Plan of the Township without a public hearing.
- B. Offers of dedication of land or public improvements to the Township shall include the following, where applicable:
  - 1. Deed of dedication to the Township, acceptable and recordable, setting forth by metes and bounds the offer;
  - 2. Separate plot plan or right-of-way plan, including metes and bounds, length of street, total area and reference to subdivision plan, together with any known easements, restrictions or covenants;
  - 3. Properly executed release of mechanics liens;
  - 4. Letter of inspection from the Township's Engineer, certifying that construction has been completed in accordance with applicable regulations, and is satisfactory;
  - 5. Maintenance bond in an amount equal to 15% of the actual cost of installation of improvements for a period of 18 months, as provided for in Section 509 (k) of the Pennsylvania Municipalities Planning Code.
- C. Every street, park, stormwater control facility or other public improvement shown on a recorded subdivision or land development plan shall be

deemed to be a private street, park, or improvement until such time as the same has been accepted by the Board of Supervisors by ordinance or resolution.

**Section 302. Control of Common Areas and Facilities.**

Whenever a developer or owner proposes to provide land or structures for the common benefit of the particular residents of a project, such as usable open space and active play areas, a homeowners association shall be established to maintain such facilities. The Township Supervisors shall retain the right to review and approve the Articles of Incorporation and all Declarations of Covenants, Conditions, and Restrictions of the homeowners association.

**ARTICLE 4**

## GENERAL PROCEDURE AND JURISDICTION

### Section 400. Plan Approving Authority.

All subdivision and land development plans shall be subject to approval, approval with modification, or rejection by the Board of Supervisors; in the event such a plan is disapproved the reasons therefore shall be set forth in writing. All plans shall be referred to the Planning Commission for its review and recommendations.

### Section 401. Pre-Application Conference.

Subdividers are urged to prepare sketch plans for review with the Planning Commission. Such sketch plans shall be considered for informal discussion, and shall not constitute an official submission. Based on the data on the plan and the information received during the discussion, the Planning Commission will advise the subdivider of the extent to which the proposed subdivision conforms to these regulations, and suggest any changes which are deemed advisable or necessary to secure conformance with these regulations where applicable. At this time the Planning Commission may also indicate whether the plan would be classified as a Minor, Preliminary or Final plan. The applicant shall indicate on the sketch plan all of the remaining property under single ownership.

### Section 402. Plan Submittal

- A. All proposed subdivisions or land development plans shall be filed with the Township through the Township Secretary. The Township Secretary shall receive all required copies of the plan and supporting documentation including sewage planning modules, where applicable, and shall distribute plan copies and documentation to appropriate review agencies as listed in Articles 6, 7, and 8.
- B. The Township Secretary shall not accept any proposed subdivision or land development plan for review if appropriate filing fees to the Township and other review agencies, as may be required, have not been paid.
- C. All plans and necessary supporting documentation shall be properly filed with the Township Secretary not less than twenty-one (21) calendar days in

advance of the Planning Commission meeting at which review of the plan is desired. Plans not meeting this deadline shall be considered at the second regularly scheduled Planning Commission meeting following the date of submittal.

### **Section 403. Plan Types.**

#### **A. Minor Plan.**

1. Any subdivision of land which contains no more than five (5) lots, does not propose the construction of public or private streets or other improvements to be dedicated to the public, and does not propose the establishment of new public easements or rights-of-way other than unimproved drainage easements, shall be considered as a Minor Subdivision Plan. Provided that such plan and supporting documents comply in all applicable respects with the requirements for both Preliminary and Final plans, the Planning Commission shall review the plan as both a Preliminary and Final plan, thereby excusing the applicant from submitting a separate Preliminary plan.
2. Any proposed land development plan which contains no more than five (5) residential dwelling units or one (1) non-residential structure with no more than five (5) prospective occupants located on a parcel of land totaling not more than five (5) gross acres in size, shall be considered as a Minor Land Development Plan. Provided that such plan and supporting documents comply in all applicable respects with the requirements for both Preliminary and Final land development plans, the Planning Commission shall review the land development as both a Preliminary and Final plan, thereby excusing the applicant from submitting a separate Preliminary land development plan.
3. In order to prevent a single property from being subdivided over a period of time as a series of Minor Plans, an owner of a property that already has had, including any proposed submission, six (6) or more lots or units developed as a Minor Plan(s) shall indicate all the remaining property under single ownership in all future requests for subdivision or land development, and the Township shall require separate Preliminary and Final plan submissions.

#### **B. Preliminary Plan.**

All proposed subdivision or land development plans, if not qualifying as Minor

Plans as defined in 403.A above, and for which no valid Preliminary Plan approval exists, shall be submitted as Preliminary Plans and shall be required to comply in all respects with the applicable provisions of this ordinance.

C. Final Plan.

1. To be considered as a Final Plan, all proposed subdivision or land development submittals must first be approved by the Board of Supervisors as a Preliminary Plan.
2. If the applicant makes substantial revisions in his plan after it has been approved as a Preliminary Plan, such revised plan shall require a new Preliminary Plan approval before being submitted as a Final Plan.

**Section 404. Approval of Plans.**

All applications for approval of a plan whether Minor, Preliminary or Final, shall be acted upon by the Board of Supervisors, and such decision communicated 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 the plan is filed in accordance with Section 402, above. 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 (30<sup>th</sup>) day following the day the application has been filed.

- A. The decision of the Board of Supervisors shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than fifteen (15) days following the decision.
- B. 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 the provisions of the North Newton Township Subdivision and Land Development Ordinance relied upon.
- C. Failure of the Township 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.

D. Changes in Township ordinances shall affect plans as follows:

1. From the time an application for approval of a plan, whether Preliminary or Final, is duly filed as provided in this subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a Preliminary Plan application has been duly approved, the applicant shall be entitled to Final Plan approval in accordance with the terms of the approved Preliminary Plan application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
2. When an application for approval of a plan, whether Preliminary or Final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval and shall be extended for the duration of any litigation, or a sewer or utility moratorium imposed subsequently to the filing of the application for preliminary approval of a plat.
3. Where Final Plan approval is preceded by Preliminary Plan approval, the aforesaid five-year period shall be counted from the date of the Preliminary Plan approval. In the case of any

doubt as to the terms of a Preliminary Plan approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

4. Where the landowner has substantially completed the required improvements as depicted upon the Final Plan within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the Preliminary Plan shall modify or revoke any aspect of the approved Final Plan pertaining to zoning classification or density or lot, building, street or utility location.
5. In the case of a Preliminary Plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the Preliminary Plan delineating all proposed sections as well as deadlines within which applications for Final Plan approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the Preliminary Plan approval, until Final Plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Township in its discretion.
6. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the Preliminary Plan, unless a lesser percentage is approved by the Township in its discretion. Provided the landowner has not defaulted with regard to, or violated any of the conditions of, the Preliminary Plan approval, including compliance with the aforesaid schedule of submission of Final Plans for the various sections, then the aforesaid protection afforded by substantially completing the improvements depicted upon the Final Plan within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protection shall apply for an additional term or terms of three years from the date of Final Plan approval for each section.

7. Failure of landowner to adhere to the aforesaid schedule of submission of Final Plans for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the Township subsequent to the date of the initial Preliminary Plan submission.
- E. Before acting on an application, the Board of Supervisors or the Planning Commission, as the case may be, may hold a public hearing thereon after public notice.
- F. No plan which will require access to a highway under the jurisdiction of the Pennsylvania Department of Transportation shall be finally approved unless the plan contains a notice that a Highway Occupancy Permit is required pursuant to Section 420 of the act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law," before driveway access to a State highway is permitted.

Neither the Pennsylvania Department of Transportation nor any municipality to which permit-issuing authority has been delegated under the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the Township shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Pennsylvania Department of Transportation.

- G. Approval of the Preliminary Plan constitutes approval of the proposed subdivision or land development in respect to general design, the approximate dimensions and other planned features. Preliminary Plan approval binds the applicant to the general scheme of the Plan as approved and permits the applicant to begin preparation of the Final Plan. Preliminary Plan approval does not authorize the recording, sale or transfer of lots.
- H. Preliminary Plan approval shall expire if Final Plans are not submitted within one year of Preliminary Plan approval.

#### **Section 405. Fees**

- A. The Board of Supervisors shall set fees, payable to the Township in advance, for the administrative review and processing of subdivision or land development plans. Such fees shall be established by

Resolution of the Board of Supervisors, and may be amended by subsequent Resolutions.

- B. In addition, the Supervisors may require, through reimbursement to the Township and/or direct payment, the payment of reasonable and necessary charges of the Township's professional consultants or engineer for review of plans and report thereon to the Township. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Township Engineer or consultants 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 Township when fees are not reimbursed or otherwise imposed on applicants.
- C. Fee Disputes. In the event the applicant disputes the amount of any fees charged as the result of reviews by the Township's professional consultants or engineer, the applicant shall have fourteen (14) days from receipt of a bill from the Township to notify the Township that such fees are disputed, in which case the Township shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees. In the event that the Township and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the Township shall follow the procedure for dispute resolution as set forth below.
  - 1. If, within twenty-five (25) days from the date of billing, the Township and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and Township shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.
  - 2. 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.

3. In the event that the municipality 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 Cumberland County (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding five (5) years.
4. The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000.00 or more, the Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay one-half of the fee of the appointed professional engineer.

#### **Section 406. Recording of Plan.**

Within ninety (90) days of the approval of a Minor Subdivision or Land Development Plan, or Final Subdivision or Land Development Plan by the Board of Supervisors, the applicant shall record the plan in the Office of the Recorder of Deeds of Cumberland County, and forthwith return one (1) copy of the plan showing the official date of recording (Recorder's clocking or stamp) with the Plan Book and Page Number(s) indicated. If any plan is not recorded within this time, the approval shall expire.

### **ARTICLE 5**

#### **VOLUNTARY PRE-APPLICATION CONSULTATION**

#### **Section 500. Sketch Plan (Option to Developer)**

Prior to the submission of a Preliminary Plan, applicants, at their option, may submit a Sketch Plan to the Township for advice, suggestions and non-binding opinions from the Township staff and the Board of Supervisors. While submission of a Sketch Plan is optional, the Township strongly recommends the submission of Sketch Plans. Submission of Sketch Plans affords applicants the opportunity for meaningful discussion with Township officials prior to incurring the expense of preparing preliminary plans.

At the option of the applicant/developer, Sketch Plans may be submitted for review by the Township staff, the Planning Commission and/or the Board of Supervisors. Sketch plans reviewed by the Township staff shall be subject to all fees and costs incurred by the Township pursuant to its efforts arising out of this article including, but not limited to engineer and solicitor fees and administrative costs.

Any and all options, discussions or representations made by the township staff, the Planning Commission or the Board of Supervisors shall not be binding upon the Board of Supervisors when acting upon subsequently submitted preliminary or final plans. Applicants submitting Sketch Plans acknowledge the non-binding nature of such discussions, opinions and/or representations. All preliminary and final plans must comply with the requirements of the Township ordinances and all other applicable laws and regulations. Discussions, opinions and/or representations made during the review of a Sketch Plan shall not be a basis for non-compliance with the applicable requirements for plan approval. In addition, discussions with and/or opinions or representations by Township staff shall not be binding upon the Board of Supervisors when taking action on a plan.

Although the Township encourages the submission of Sketch Plans and submission of as much technical data as possible, such submission and review of a Sketch Plan shall not constitute an official submission of a plan to the Township which requires action by the Board of Supervisors pursuant to the terms of the Municipalities Planning Code.

### **Section 501. Consultation with the Planning Commission**

Conferences and any other communications with the Planning Commission shall be kept as confidential as possible. Before going ahead with the Preliminary Plan procedure or with steps to acquire land or subdivide, the subdivider or developer should consult with the Planning Commission about the following factors:

- A. The suitability of the site for development.
- B. The demand for a development of the type proposed in the particular location proposed.
- C. The accessibility of the site.
- D. The availability of public facilities (schools, parks, water, sanitary and storm sewerage, etc.) and public services (police, fire, refuse disposal, etc).
- E. The effect on the project of any contemplated improvements or the proposals of any comprehensive plan and these regulations.
- F. Sewage facilities requirements of the Department of Environmental Protection and the Township.
- G. Erosion and sedimentation control plans and permits as required by the Department of Environmental Protection and as reviewed by the Cumberland County Conservation District.
- H. Precautionary measures to preserve or protect historic and natural features.
- I. Approvals by all appropriate state and federal agencies.
- J. Probability of floodplain and/or wetland areas on the site.

**Section 502. Sketch Plan Submission.**

It is suggested that prior to the consultation with the Planning Commission the subdivider prepare a sketch plan of his proposed development. It is suggested that the subdivider or developer submit sufficient data to the Planning Commission for purposes of generally illustrating and discussing the proposed project.

**Section 503. Suggested Information Submitted.**

The following information is suggested to be submitted for review under this Article:

- a. A plan drawn at a scale not smaller than 1 inch = 100 feet. This plan

must be labeled "Sketch Plan".

- b. An approximate key map showing the generalized location of the tract and adjacent streets.
- c. Tract boundaries with approximate dimensions.
- d. Any lots which were subdivided from the parent tract.
- e. North point, topography, swales, major tree stands and other significant existing site features.
- f. Proposed street and lot layout with information as to the kinds of uses contemplated.
- g. Current land use of the adjacent properties.
- h. The name and mailing address of the property owner and date.
- i. Such other information necessary for a meaningful discussion.

#### **Section 504. Meetings**

The applicant may, subject to availability, obtain meetings with Township officials, including members of the Board of Supervisors, the Township Engineer, the Township Solicitor, and others. However, such meetings are purely voluntary and no particular Township officer or his representative may be compelled to attend.

## **ARTICLE 6 PRELIMINARY PLANS**

#### **Section 600. Plan Requirements.**

The following materials shall be submitted with an application for review and approval of Preliminary Plans:

- A. Ten (10) copies of the subdivision or land development plan in the form of a map or series of maps on sheet sizes either eight and one-half inches by fourteen inches (8 ½" x 14"), eighteen inches by twenty-four inches (18" x 24") or twenty-four inches by thirty-six inches (24" x 36") drawn to a scale not smaller than one hundred (100) feet to the inch and showing the following:
  1. Title Block, to be placed in lower right corner of plan sheet or on separate cover sheet, with the following information:
    - a. Proposed subdivision name or identifying title. Such names shall not conflict with any other plan title on file in the Township.
    - b. Bear the legend "North Newton Township, Cumberland County, Pennsylvania".
    - c. Written scale, date of preparation of plan, with revision dates, if any, drawing or file number and sheet number.
    - d. Name, address, zip code and telephone number of the owner(s) of the property or authorized agent.
    - e. Name of registered engineer or registered surveyor responsible for the plan.
  2. Boundaries of the property being subdivided including all residual property showing bearings and distances, a statement of the total acreage of the property being subdivided, and the area of each lot established including the residual which shall be counted as one lot. Accurate dimensions of each lot to be established with a minimum error of closure of not less than one (1) in five thousand (5000).

3. North arrow, graphic scale and written scale.
4. Existing and proposed contours of the proposed project at vertical intervals of two (2) feet in those areas where construction is proposed. The undeveloped portion to be contoured at no greater than ten (10) foot intervals, and may be taken from the USGS maps. Datum to which contour elevations refer shall be the National Geodetic Vertical Datum of 1929. The Planning Commission may require supplemental contour plans for final grades or enlargements.
5. All existing streets on or adjacent to the tract, including name, right-of-way width and cartway width.
6. All existing buildings, wells, sewage facilities, water mains, culverts, storm sewers, gas lines, underground cables, and any other significant man-made features, easements and right-of-ways.
7. All existing watercourses, tree masses, rock outcrops, and any other significant natural features, including the approximate location of the 100-year floodplain boundaries, if applicable.
8. Names of owners of all abutting land, including deed book reference.
9. Location map, at an appropriate scale, to show the proposed subdivision or land development with respect to area roadways and other significant features in the adjoining areas.
10. The location and dimensions of proposed easements, rights-of-way, and land reserved for public purposes; and the location, course, and dimensions of all buried and above ground utilities.
11. Proposed lot lines with minimum building setback lines.
12. Seal and signature of registered surveyor or registered engineer who has prepared the plan.
13. Clear sight triangles at street intersections, and commercial driveway entrances as set forth in this ordinance.
14. For land development plans, proposed well and building locations and respective parking areas.

15. A copy of any deed restrictions imposed on the property as a condition of sale by the present owner. A notation which identifies and references any previous subdivisions of the same "parent" tract of land, or which created the tract now being subdivided.
  16. Any and all lots created from the same parent tract shall be numbered or lettered consecutively.
  17. When on-site sewage disposal systems are proposed, the locations of satisfactory soil percolation test sites and probe holes required for the planning module shall be shown.
  18. Signature block and date space for recommendation by the Township Planning Commission and approval by the Board of Supervisors.
  19. Where the Preliminary Plan covers only a part of the subdivider's holdings, or where development is to occur in phases, a sketch shall be submitted of the prospective street layout for the remaining area.
  20. If construction is to occur in phases, or if the Final Plan approval will be sought in phases, a plan showing the progression of phases, how each phase relates to completed and future phases, and a time schedule indicating when each phase is to be commenced and completed. The time schedule shall be updated in accordance with the provisions of the Municipalities Planning Code (Act 247, as amended).
  21. A typical cross-section drawing for all proposed streets showing rights-of-way, cartway widths, and location of sidewalks, if applicable. Profile drawings of all proposed streets showing existing and proposed grades.
  22. Plans and profiles of existing and/or proposed sanitary and storm sewer systems, water distribution systems, and any other pertinent utilities. Such plans shall include grades, pipe sizes and the location of valves and fire hydrants.
  23. Location and width of utility, drainage and access easements.
- B. Results of preliminary soil analysis which shall be conducted in accordance

with the Rules and Regulations of the Department of Environmental Protection and inspected by a certified Sewage Enforcement Officer approved by the Township.

- C. Each subdivision or land development application shall be accompanied with five (5) copies of a Supplement or Revision to the Township's Official Plan of Liquid Waste Disposal on forms provided by the State Department of Environmental Protection.
- D. Each subdivision or land development application shall be accompanied with five (5) copies of a preliminary stormwater management plan, in accordance with the requirements of this Ordinance.
- E. If water is to be supplied by means other than on-site wells, maintained and operated by individual lot owners, a copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such, a cooperative agreement or commitment letter must accompany the Plan as evidence that the proposed development will be supplied with an adequate, reliable and safe water supply.
- F. If public water or sewer are to service the proposed lots(s), documentation of the availability of said utility shall be provided.
- G. Whenever a single tract or other parcel of land, or part thereof, is subdivided or developed such that the subdivision or development is subject to the Rules and Regulations of the Department of Environmental Protection pursuant to the control of erosion and sedimentation, the subdivider or developer shall prepare, for the use and review of the Township, four (4) copies of a preliminary Erosion and Sedimentation Control Plan. The design standards and specifications for said Plan are contained in the Erosion and Sedimentation Control Handbook which has been prepared by the County Conservation District and is on file in that office and with the Township.
- H. No plan which will require access to a highway under jurisdiction of the Department of Transportation shall be finally approved unless the plan contains a notice that a Highway Occupancy Permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 4228), known as the "State Highway Law," before driveway access to a State highway is permitted. The plan shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. In all other respects, full and complete compliance must take place with respect to

the provisions of Act No. 1986-42 and any supplementary rules and regulations enacted pursuant thereto by the Pennsylvania Department of Transportation.

- I. The applicant shall provide adequate documentation and certification as to the existence or nonexistence of wetlands on the site, and shall delineate any known or suspected wetlands on the plan. Where verified wetland areas exist either wholly, partially, or bordering any proposed subdivision or land development, all necessary permits required by Federal and State agencies for the crossing, disturbance or removal of such wetlands, including but not limited to filling, draining or building activities, shall be obtained prior to approval of the Final Plan.

**Section 601. Review Procedure.**

- A. At least twenty-one (21) days prior to the meeting of the Planning Commission at which initial consideration is desired, the subdivider or developer shall submit ten (10) copies of the Preliminary Plan and accompanying documentation to the Township Secretary, together with appropriate filing fees.
- B. Copies of the Preliminary Plan shall be distributed by the Township Secretary as follows:
  1. One (1) copy of the plan and supporting data, plus the appropriate review fee, to the County Planning Commission for review and comment.
  2. One (1) copy of the plan and supporting data to the Township Engineer for review and comment.
  3. One (1) copy of the plan and supporting data to the Pennsylvania Department of Transportation, where a proposed project abuts or will be traversed by an existing or proposed state highway.
  4. One (1) copy of the plan and supporting data, plus the appropriate review fee, to the County Conservation District Office for all land developments, subdivisions of three (3) lots

or more and other parcels of land or projects deemed necessary by the Township.

5. Remaining copies to the Township Planning Commission.
  6. Plan submissions to all other agencies, including applicable filing fees, shall be the responsibility of the developer.
- C. The Planning Commission shall take official action on a Preliminary Plan and communicate such action to the Board of Supervisors in a timely fashion, so as not to jeopardize the proper review of the plan by the Board within the 90-day review limit, unless said limit is extended by agreement with the applicant. Upon recommendation of Preliminary Plan approval, the Commission shall recommend to the Board of Supervisors that the supplement or revision to the Township Official Liquid Wastes Disposal Plan be formally adopted and submitted to the Pennsylvania Department of Environmental Protection for its review, if applicable.
- D. The Board of Supervisors shall take official action on a Preliminary Plan after it has received the report of the Planning Commission and within ninety (90) days as described by the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended). The Board shall note its action on all available copies of the plans. At least two copies (2) shall be retained for Township use. Remaining copies may be returned to the developer. The action of the Township with regard to the plan shall be in writing, and communicated to the subdivider or developer (applicant) personally, or mailed to him at his last known address not later than fifteen (15) days following the decision.

## ARTICLE 7

### FINAL RECORD PLANS

#### Section 700. Plan Requirements.

The following materials shall, where applicable, be submitted with an application for approval of a Final Plan. Final Plans shall conform in all important details with Preliminary Plans as previously approved, and any conditions specified in the approval of Preliminary Plans shall be incorporated in the Final Plans.

- A. Provide ten (10) copies of the Final Plan, in the form of a map or series of maps, drawn to a scale of not smaller than one hundred (100) feet to the inch, on sheets size eighteen inches by twenty-four inches (18" x 24"). Where more than one (1) sheet is required, an index map of the entire project at a smaller scale shall be shown on a sheet of the same size. The Planning Commission may require Final Plans at a scale of fifty (50) feet to the inch as a condition of Preliminary Plan approval to assure legibility in cases warranted by the complexity of the proposal. Such Final Plans shall show:
1. All items required to be shown in Preliminary Plans as specified in Section 600, A.
  2. The location of all existing and proposed survey markers. At least two permanent survey reference monuments shall be shown on the Final Plan.
  3. The location of minimum building setback lines and exact dimensions of all proposed lots.
  4. Erosion and Sedimentation Control Plan and/or Earth Disturbance Permit, when required under Section 102 of the Clean Streams Law, which shall be reviewed by the Cumberland County Conservation District for compliance with the Rules and Regulations of the Department of Environmental Protection and the design standards and specifications contained in the Cumberland County Erosion and Sedimentation Control Handbook.

5. In tabular form, the following information shall be shown on the plan, as is applicable;
  - a) Type of Development
  - b) Zoning of Tract
  - c) Total Tract Area
  - d) Area of this Plan (if less than total tract)
  - e) Number of Lots or Units (total)
  - f) Breakdown of Unit Types and Numbers
  - g) Minimum Lot Size on Plan
  - h) Proposed Water Supply and Sewage Disposal
  - i) Linear Feet of New Street
6. Sufficient data to determine readily the location, bearings, and length of every street, lot and boundary line, and to reproduce such lines upon the ground.
7. The length of all straight lines, radii, lengths of curves, chord lengths and bearings of curves for each street.
8. Identification of each lot by number or letter, including residual tracts.
9. Identification of all streets within and adjacent to the plan, by name and/or route number.
10. At least two permanent reference monuments shall be shown on the plan.
11. The location of storm drainage facilities, sanitary sewers and water mains, located in the tract, adjacent to the tract or related to the tract. Related to the tract means the location of the main from which sewer or water service will be extended, and the source of drainage flows from off-tract which do or will flow through the tract.

12. Profiles for all streets showing the existing and proposed finished grades along the centerline of the street.
  13. The location, profile, and size of all sanitary sewer mains, and top and invert elevations for each sanitary sewer manhole.
  14. The location, profile, and size of all storm sewer pipes, including location and size of inlets, culverts and manholes.
  15. The location, profile, and size (as applicable) of all other existing and proposed utilities that are located either above or below ground.
  16. The erosion and sedimentation control plan and the storm water management plan, including all runoff comparisons, basin and pipe size calculations, etc. Also submitted shall be a final grading plan.
  17. Typical street cross-sections for all streets.
  18. The exact location and elevation of all proposed buildings, structures, roads and public utilities to be constructed within any designated Flood Plain Area. Plans shall show contours at intervals of two (2) feet and accurately identify the boundaries of the flood-prone areas, showing elevations and delineated floodway and flood fringe areas with elevations where applicable.
- B. Submission of the Final Plan shall also be accompanied by all required permits and related documentation from the Department of Environmental Protection, and any other Commonwealth agency, or the Township where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified of the proposed alteration or relocation.

- C. If wetlands exist wholly within, partially within, or bordering the site, they must be accurately delineated on the plan. In addition, a narrative shall be prepared and submitted describing the impact construction activities will have on the wetlands, and how they will be protected. If the wetland areas are to be disturbed, the appropriate permit(s) shall be obtained, and evidence of such permit(s) presented to the Township prior to approval of the Final Plan.

In addition, a notation must be placed on the plan, indicating the presence of, suspected presence of, or absence of wetlands on the site. The notation must make reference to the information relied upon (such as NWI mapping, SCS information, field observations, etc.) and contain name(s) of a contact person and phone number. If no actual field study and delineation of wetlands has been performed, the notation shall include such a statement.

- D. No plan which will require access to a highway under jurisdiction of the Department of Transportation shall be finally approved unless the plan contains a notice that a Highway Occupancy Permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 4228), known as the "State Highway Law," before driveway access to a State highway is permitted. The plan shall be marked to indicate that access to the state highway shall be only as authorized by a Highway Occupancy Permit. In all other respects, full and complete compliance must take place with respect to the provisions of Act No. 1986-42 and any supplementary rules and regulations enacted pursuant thereto by the Pennsylvania Department of Transportation.
- E. Evidence that the plans are in conformity with building, sanitation and other applicable Township ordinances and regulations and with the regulations governing the extension of utility services into the Township. A Nutrient Management Plan approved by the Cumberland County Conservation District may be required for land development plans that include the raising and/or keeping of livestock. In any instance where such plans do not conform, evidence shall be presented that an exception has been officially authorized.

- F. The name of the record owner (and Subdivider) with notarization certifying

that the undersigned is the owner or equitable owner of the land proposed for development and/or subdivision; and that the subdivision and/or development as shown on the final plan is made with his or her free consent and that it is desired to record the same; and that it is the intent to dedicate to public use, unless specifically stated otherwise, all street rights-of-way shown and all lands proposed for public use.

- G. The following notations shall be required on all subdivision or land development plans, as applicable:
1. Statement that all known existing easements and rights-of-way have been shown on the plan, and all utilities have been contacted as required by Pa. Act 172 of 1986.
  2. Statement that the property owner or developer, as applicable, is responsible for implementation of the erosion and sedimentation control/storm water management plan.
  3. Statement that all street signs, street lights, traffic control signage and pavement markings will be purchased and installed at the developer's expense.
  4. No trees, shrubbery, fences, structures, walls or fill shall be placed within the right-of-way of any street or within any easement.
  5. The subdivider/developer of this subdivision/land development plan has established deed restrictions and/or land covenants on the lots(s)/parcel(s) depicted on this plan. Copies of these restrictions and/or covenants are recommended to be obtained and reviewed by any prospective purchaser(s) prior to closure of sale or preparation for construction.
  6. Notice of PennD.O.T. Highway Occupancy Permit requirements as per the Pennsylvania Municipalities Planning Code.
  7. All drainage facilities shall be owned and maintained by the developer

until land on which the facility is located, is developed and sold. The ownership of all storm drainage channels located within drainage easements occupying any lot or tract will be transferred with the lot or tract. The responsibility for normal operation and maintenance of the channel surface will be that of the respective lot or tract owner, their heirs, and assigns. All such drainage facilities shall remain unobstructed and shall be maintained by the lot or tract owner relative to shape, alignment, gradient, cover, and hydraulic capacity as constructed by the developer.

8. North Newton Township Supervisors and their employees shall have access to any and all drainage easements and/or drainage facilities and shall have the right at their discretion to maintain or repair the facilities as necessary to restore them to the design conditions. If the need for such maintenance or repair is a result of a direct act or negligence by the property owner(s), then the cost to complete the maintenance or repair shall be borne by the responsible property owner(s).
9. The Developer is responsible for the mowing of any lots that he owns, and individual lot owners will be responsible for the mowing of their respective lots upon transfer by the Developer.
10. North Newton Township hereby acknowledges that the stormwater management plan as proposed herein meets and is consistent with the Township's Ordinances relating to stormwater management. Developer/Applicant and Township acknowledge that this Plan may require a National Pollutant Discharge Elimination System (N.P.D.E.S.) permit from the Department of Environmental Protection, Commonwealth of Pennsylvania. As a result of the N.P.D.E.S. permit program, the stormwater management plan as proposed may be changed and/or altered. If the N.P.D.E.S. permit program requirements result in changes and/or alterations, the Applicant/Developer shall submit the changes and/or alterations from the stormwater management plan to the Township and Township's Engineer for review and approval. Similarly, if the stormwater management plan is changed and/or altered as a result of PennD.O.T. requirements, the Applicant/Developer shall submit the changes and/or alterations from the stormwater management plan to the Township and Township's Engineer for review and approval.
11. Landscaping required by Section 902.H shall be installed and

continuously maintained by the property owner in accordance with the applicable regulations as a continuous condition of this plan's approval by North Newton Township.

- H. A review block shall be provided for the Cumberland County Planning Commission.
- I. A recommendation block shall be provided for the North Newton Township Planning Commission.
- J. An approval block shall be provided for the Board of Supervisors.
- K. Where the developer/applicant proposes the construction and dedication of recreational facilities or payment of fee in lieu thereof as set forth herein, plan notations shall be provided clearly identifying the selected alternative to comply with the applicable recreational requirements

**Section 701. Review Procedure.**

- A. At least twenty-one (21) days prior to the meeting of the Planning Commission at which initial consideration is desired, the subdivider or developer (applicant) shall submit ten (10) copies of the Final Plan and the appropriate number of copies of accompanying documentation to the Township Secretary.
- B. A Final Plan may be prepared for only a portion of the approved Preliminary Plan where a subdivider or developer wishes to undertake the development of a project in sections or stages.
- C. Upon receipt of the Final Plan the Township Secretary shall submit one (1) copy of the plan and one (1) copy of the erosion and sedimentation control plan, stormwater management plan and all other documentation to the Township Engineer; one (1) copy of the plan, and requests for modifications or variances to the County Planning Commission, together with the appropriate fee; one (1) copy of the plan, the erosion and sedimentation control plan and the stormwater management plan and grading plan, together with the appropriate fee, to the Cumberland County Conservation District; and the remaining copies to the Planning Commission.

Plan submittals to all other agencies as may be required, including applicable filing fees, shall be the responsibility of the developer.

- D. The Planning Commission shall consider the comments of the other reviewing agencies and shall recommend either approval or disapproval of the Final Plan, or approval of the Final Plan with conditions.
- E. The Township Supervisors shall take official action on each subdivision or land development plan within the required ninety (90) day review period as described in the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and shall note or stamp its actions on all copies of the plan. Distribution of the copies of the plan as finally approved shall be as follows: One (1) copy to the Engineer; two (2) copies to be retained in the Township Secretary's files; one (1) copy to the Planning Commission; and the original and two (2) copies to the subdivider or developer. If the plan is disapproved, the subdivider or developer shall be notified, in writing, of the requirements which have not been met with reference to the applicable provisions of this ordinance. The action of the Township with regard to the plan shall be communicated to the subdivider or developer not later than fifteen (15) days following the decision.
- F. The Township Board of Supervisors shall not approve a Final Plan without a favorable report from the Department of Environmental Protection regarding the Official Sewage Facilities Plan Supplement or Revision (planning module). However, failure of the Department of Environmental Protection to report to the Township within their regulated review period shall constitute approval of the planning module as submitted.
- G. The Township Board of Supervisors shall not approve a Final Plan until proof of issuance is received for any necessary permits from the Department of Environmental Protection, including but not limited to Earth Disturbance Permit or Water Obstruction and Encroachment Permit, and any permits which may be necessary for wetland encroachment, crossings, or mitigation activities.
- H. The Township Board of Supervisors shall not approve a Final Plan until a review of the plan is completed by the Cumberland County Planning

Commission, or until the expiration of thirty (30) days from the date the County Planning Commission received the plan for review.

- I. The Township Board of Supervisors shall not approve a Final Plan unless and until all required improvements are either installed in accordance with this ordinance, or financial security sufficient to cover the costs of the improvements is posted with, and accepted by, the Township. Security shall be as described and regulated in Article 14 of this Ordinance, and by the Pennsylvania Municipalities Planning Code, Act 247 or 1968, as amended and reenacted.
  
- J. Upon Final Plan approval, the subdivider or developer (applicant) shall provide the Township with one (1) dwg AutoCADD File that includes a sketch of all the lots on the plan and all other information as may be required by the Cumberland County Planning Department.

## ARTICLE 8

### MINOR PLANS

#### Section 800. Plan Requirements.

Any subdivision or land development plan that qualifies as a Minor Plan according to the criteria of Section 403A, shall be required to comply with all applicable standards of Article 6 Preliminary Plan Requirements and Article 7 Final Plan Requirements. By meeting both Preliminary and Final Plan requirements, the subdivider or developer (applicant) may combine the separate Preliminary and Final plan submittals into one submittal. All Minor Plans shall include the designation "Minor Subdivision Plan" or "Minor Land Development Plan", and shall be submitted on a sheet size of 18" x 24".

- A. Lot Additions. Minor Plans proposing a lot addition(s) to be transferred to an adjacent landowner(s) shall comply with the following:
1. The person(s) to whom the lot addition will be transferred shall sign and have properly notarized a statement, which shall be placed on the plan sheet, affirming his intent to acquire the property.
  2. If a lot addition does not meet the minimum requirements of this ordinance pertaining to area, width and depth, the following note shall be placed on the plan sheet: "The lot addition shown hereon (Lot \_\_\_\_ ) does not meet the minimum requirements for a building lot in North Newton Township and, therefore, cannot by itself be sold, transferred or otherwise used for the construction of a dwelling unit(s), or for other land development".
  3. Any lot addition which, by itself, is substandard as a building lot in area, width or depth shall, upon plan approval by the Board of Supervisors, be incorporated with adjacent lands by deed, such that the lot addition is no longer a separate tract of land. Evidence of compliance with this requirement shall be furnished by the purchaser of the lot addition upon request by the Township.

4. If a lot addition which does not meet the minimum requirements of this ordinance pertaining to area, width, and depth is being added to an existing substandard lot, then the two tracts shall be incorporated into one by a consolidation deed. The Developer shall provide the Township with a copy of the consolidation deed upon having it recorded.

**Section 801. Review Procedure.**

- A. At least twenty-one (21) days prior to the meeting of the Planning Commission at which initial consideration is desired, the subdivider or developer (applicant) shall submit ten (10) copies of the Minor Plan and the appropriate number of copies of accompanying documentation to the Township Secretary.
- B. Upon receipt of the Minor Plan the Township Secretary shall submit one (1) copy of the plan and one (1) copy of all supporting documentation, to the Township Engineer; one (1) copy of the plan and all supporting documentation to the County Planning Commission, together with the appropriate fee; if earth moving activities are proposed, one (1) copy of the plan, with the erosion and sedimentation control plan and grading plan, together with the appropriate fee, to the Cumberland County Conservation District; and the remaining copies to the Planning Commission. Plan submittals to all other agencies, including applicable filing fees, shall be the responsibility of the developer.
- C. The Planning Commission shall consider the comments of the other reviewing agencies and shall recommend either approval or disapproval of the Minor Plan, or approval of the Minor Plan with conditions.
- D. The Township Supervisors shall take official action on each subdivision or land development plan within the required ninety (90) day review period as described in the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended) and shall note or stamp its actions on all copies of the plan. Distribution of the copies of the plan as finally approved shall be as follows: One (1) copy to the Engineer; two (2) copies to be retained in the Township Secretary's files; one (1) copy to the Planning Commission; and the original and two (2) copies to the subdivider or developer. If the plan is disapproved, the subdivider or developer shall be notified, in writing, of the requirements which have not been met with reference to the applicable provisions of this ordinance. The action of the Township with regard to the plan shall be communicated to the subdivider or developer not later than

fifteen (15) days following the decision.

- E. Within ninety (90) days following approval by the Board of Supervisors, the Minor Plan shall be recorded by the subdivider or developer at the County Recorder of Deeds' Office. The Recorder of Deeds shall not accept any plan for recording unless the plan has been officially noted as being reviewed by the County Planning Commission and approved and signed by the Board of Supervisors.
- F. The Township Board of Supervisors shall not approve a Minor Plan without a favorable report from the Department of Environmental Protection regarding the Official Sewage Facilities Plan Supplement or Revision (planning module). However, failure of the Department of Environmental Protection to report to the Township within their regulated review period shall constitute approval of the planning module as submitted.
- G. The Township Board of Supervisors shall not approve a Minor Plan until proof of issuance is received for any necessary permits from the Department of Environmental Protection, including but not limited to Earth Disturbance Permit or Water Obstruction and Encroachment Permit, and any permits which may be necessary for wetland encroachment, crossings, or mitigation activities.
- H. The Township Board of Supervisors shall not approve a Minor Plan until a review of the plan is completed by the Cumberland County Planning Commission, or until the expiration of thirty (30) days from the date the County Planning Commission received the plan for review.

## ARTICLE 9

### DESIGN AND CONSTRUCTION STANDARDS

#### Section 900. Application.

The standards of design in this article shall be used to judge the adequacy of development proposals. Where, in the opinion of the Township, the literal application of these standards in certain cases would work undue hardship or would be plainly unreasonable, the Planning Commission may recommend, and the Board of Supervisors may approve, such reasonable modifications as will not be contrary to the public interest or general intent of this ordinance. Modifications, if granted, shall be in accordance with the provisions set forth in Article 15. If questions arise regarding the interpretation of these design standards, the determination of the Board of Supervisors shall prevail. In making their determination, the Board may request the review and interpretation of these standards by the Township Engineer, Planning Commission and/or Township Solicitor.

#### Section 901. General Standards.

- A. No land shall be subdivided or developed for any purposes unless all hazards to life, health, or property from flood, fire and disease, shall have been eliminated or unless the plans for the project shall provide adequate safeguards against such hazards.
- B. Proposed projects shall be coordinated with existing nearby neighborhoods so that the community as a whole may develop harmoniously.
- C. If the Board of Supervisors determines that only a part of a proposed plan can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
- D. If the Board of Supervisors determines that additional controls are required to insure safe development, it may require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plan.

#### Section 902. Blocks and Lots.

- A. General Layout. In general, the lengths, depths and shapes of blocks and lots must be determined with regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  2. Minimum lot size requirements, lot dimensions, required setbacks, yard areas and other open areas.
  3. Need for convenient access, circulation, control and safety of street traffic.
  4. Limitations and opportunities of topography.
- B. **Block Length.** Blocks shall be not less than five hundred (500) feet long nor more than eighteen hundred (1800) feet long. In the design of blocks longer than twelve hundred (1200) feet, special consideration shall be given to the requirements of satisfactory fire protection.
- C. **Block Width.** Blocks shall be deep enough for two (2) tiers of lots unless through lots are permitted by the Planning Commission.
- D. **Residential Lot Sizes.** Lot dimensions, areas, yards and building setback lines shall be as listed in the table below. Minimum building setbacks shall apply to all buildings and structures, including accessory structures, that require a building permit prior to placement or construction.

<b>LOT STANDARDS FOR RESIDENTIAL SUBDIVISIONS</b>			
	Lots Having Public Sewer and Public Water	Lots Having Either Public Sewer or Public Water	Lots Not Having Public Sewer or Public Water
Minimum Lot Area	15,000 sq.ft.	30,000 sq.ft.	43,560 sq.ft.
Minimum Width <sup>1</sup>	100 ft.	150 ft.	175 ft.
Minimum Depth	125 ft.	150 ft.	200 ft.
Minimum Front Setback	40 ft.	50 ft.	50 ft.
Minimum Side Setback (1 side)	10 ft.	20 ft.	20 ft.
Minimum Side Setback (combined)	30 ft.	40 ft.	40 ft.
Minimum Rear Setback	20 ft.	20 ft.	20 ft.

Measured at the minimum front setback line.

- E. Lot Frontage. All lots created through subdivision shall have a minimum of fifty (50) feet of frontage along either an existing or proposed street.
- F. Lot Lines. Lot lines shall be approximately at right angles or radial to street lines, so long as reasonably-shaped lots result.
- G. Double Frontage Lots. Double frontage or through lots are to be avoided and generally will not be permitted unless site conditions clearly warrant their use, and unless such lots are a minimum of two hundred (200) feet deep. Access to double frontage lots shall be limited to the street of lower classification.
- H. Non-residential Lots. The width and depth of parcels laid out or reserved for non-residential uses shall provide sufficient space for off-street parking, loading and unloading, landscaping, and other needed facilities.
  - 1. Minimum Building Setback.  
Front Yard – 50 ft.; Rear yard – 50 ft.; Side yard – 35 ft. each
  - 2. The side and rear setback areas may be used for customer and employee parking, driveways, utilities, and stormwater management facilities as long as they comply with Sections 902.H.3 and 902.H.6.
  - 3. The side and rear setback areas shall not be used for any type of material, vehicle, or equipment storage.
  - 4. A 20-foot wide strip along the side and rear property lines shall be landscaped with ground cover and plant material and shall not contain impervious cover except for the crossing of necessary entrance/exit driveways.
  - 5. A 10 foot wide strip beyond the reserved or dedicated right-of-way of any road or street shall be landscaped with ground cover and plant material and shall not contain impervious cover except for the crossing of necessary entrance/exit driveways.
  - 6. Where a side or rear property line will be within 500 feet of an existing residential dwelling or is common with a previously subdivided residential lot, an evergreen screen shall be planted within the building setback area along that property line. The evergreen screen shall be created by planting trees (a minimum of six (6) feet tall at planting that will grow to a minimum of fifteen (15) feet tall at maturity) on ten (10) foot centers maximum. In addition, existing vegetation on

and around the site shall be preserved to the greatest extent possible.

7. The maximum impervious coverage allowed on a non-residential lot is 70%.
8. Proposed driveway entrances within the Township road right-of-way shall be improved, in accordance with the applicable Township road construction specifications, to their full width from the edge of the pavement to the dedicated right-of-way line prior to occupancy of the structure.

**Section 903. Streets, Design Specifications.**

- A. Street Pattern. The proposed street pattern shall be integrated with existing and/or officially planned streets and it shall be related to topography so as to produce usable lots and reasonable street grades.
- B. Street Access.
  1. Streets shall be laid out to provide for access to all lots and to adjacent undeveloped areas, and the subdivider or developer shall improve or reserve access streets to the limits of the subdivision or land development.
  2. Each subdivision or land development plan shall be designed to provide for access to each lot or development by a public street. Private streets, if approved, shall be designed and constructed in accordance with the standards set forth in this ordinance.
  3. New half or partial streets will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these Subdivision and Land Development Regulations and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.
- C. Design and Purpose. Streets that will be dedicated to the Township shall be designed for their intended use and to preserve the integrity of their design in accordance with the following functional classifications:

1. Residential Streets. Shall have a 50 foot wide right-of-way and be constructed to provide access to each lot being created in a residential subdivision.
  2. Commercial/Industrial Streets. Shall have a 60 foot wide right-of-way and be constructed to provide access to each lot being created in a commercial or industrial subdivision.
- D. Continuations. Where reasonable and practicable, new streets shall be laid out to continue existing streets at no reduction in width. Greater widths may be required.
- E. Street Names. Continuations of existing streets shall be known by the same name; but names for other streets shall not duplicate or closely resemble names for existing streets in the Township.
- F. Dead-End Streets. Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or where designed as cul-de-sac.
- G. Cul-de-sac Streets.
1. Permanent cul-de-sac streets shall not be utilized whenever a through street is more advantageous. The applicant must demonstrate that there is no other reasonable manner in which to access the land served by the cul-de-sac. Topography, parcel shape, parcel size, natural features, wetlands and existing adjacent land use and development should be considered in determining whether a cul-de-sac is appropriate.
  2. The length of cul-de-sac streets shall not exceed one thousand feet (1000'), nor be less than two hundred fifty feet (250'). The length of a cul-de-sac shall be measured from the centerline intersection of the nearest through street to the center of the cul-de-sac turnaround.
  3. Cul-de-sac streets shall include a paved, circular turnaround

having a minimum radius to the outer pavement edge or curb line of fifty (50) feet, and a minimum radius to the right-of-way line of sixty (60) feet. Cul-de-sac streets accessing commercial or industrial development shall be reviewed for adequacy by the Township Engineer. Additional right-of-way and/or pavement may be required.

4. Turnaround Grade. No cul-de-sac turnaround shall have a centerline grade exceeding four percent (4%).
  5. Cul-de-sac streets shall provide access to no more than twenty (20) dwelling units.
  6. There shall be no more than three (3) driveways off the circular turn-around. Any lots designed with frontage on both the circular turn-around and the street leading to it shall only be allowed driveway access to the street portion of the frontage and not to the circular turn-around.
  7. Mailboxes for the three lots on the circular turn-around shall be grouped together at one location on a single pedestal.
  8. A notation shall be made on the Plan regarding mailbox and driveway locations. The mailbox and driveway locations shall be shown for all lots with frontage along the circular turn-around.
  9. No panhandle lots shall be accessed from the circular turn-around.
- H. Temporary Cul-de-sac Streets. Any street which is terminated for access to an adjoining property or because of phased development authorized in the approval of the subdivision or land development plan, shall be provided with a turnaround constructed in accordance with Sections 904.F.1, 2, and 3, or 904.G.1, 2, and 3, as applicable. The use of such turnaround shall be guaranteed until such time as the street is extended. When a temporary cul-de-sac has been designed for future access to an adjoining property, the turnaround right-of-way shall be placed adjacent to the property line, and a right-of-way of the same width as the street shall be carried to the property line in such a way as to permit the extension of the street into the adjoining tract. The developer who extends a street which has been provided with a

temporary turnaround shall remove the temporary turnaround and restore the area adjacent to the extended street.

- I. Additional Right-of-Way. Where a subdivision or land development abuts or contains an existing State or Township street or highway, the plan shall provide for additional right-of-way if necessary, to bring the street up to the minimum widths prescribed by Section 903.C.
- J. Improvement to Curb Line. Where a subdivision or land development abuts or contains an existing State or Township street or highway and the plan provides for the installation of curbing or shoulders, the plan shall also provide for additional stone base and paving between the existing cartway edge and the new curb, or shall provide for the widening of the existing cartway and the addition of, or widening of, the shoulder, in accordance with the standards prescribed by Section 904.
- K. Clear Sight Distance. Clear sight distance along the center lines of local streets shall be maintained at not less than two hundred-fifty (250) feet.
- L. Grades. The minimum grade for all streets shall be 0.5%, and the maximum grade shall not exceed 8%. Steeper grades may be permitted for short distances if no gentler slope is possible.
- M. Horizontal Curves. Changes in street direction shall be made by horizontal curves with a minimum radius of two hundred (200) feet. These radii are to be measured at the center line. Shorter radii may be permitted on recommendation of the Township Engineer.
- N. Vertical Curves. Changes in grade shall be joined by vertical curves, and the maximum rate of change of grade shall be five percent (5%), provided that the clear sight distances specified above are maintained at all points.
- O. Crown. The slope of the crown on all streets shall be more than one-eighth (1/8) inch per foot and less than one-third (1/3) inch per foot as directed by the Township Engineer.
- P. Side Slopes. Street cuts and fills shall be provided with side slopes no steeper than one vertical to three horizontal. Such slopes shall be suitably

planted with perennial grasses or other vegetation to prevent gullyng and erosion.

Q. Intersections. Street intersections shall be designed according to the following standards:

1. No more than two (2) streets shall cross at the same point. Street intersections shall be at right angles wherever possible, and intersections of less than seventy (70) degrees (measured at the centerline intersection of the streets) will not be permitted.
2. Intersecting streets shall not enter into the same side of the street at intervals of less than eight hundred (800) feet. Local streets entering another street from opposite sides should be directly opposite each other; or if necessary, they may be separated by at least one-hundred fifty (150) feet between centerlines measured along the centerline of the cross street. Greater off-set may be required by the Planning Commission depending on the importance of the cross street.
3. Maximum grade within any intersection shall not exceed five percent (5%) in any direction, and approaches to any intersection shall follow a straight course within one hundred (100) feet of the intersection.

Where the grade of any street at the approach to an intersection exceeds seven percent (7%), a leveling area shall be provided, having not greater than four percent (4%) grades for a distance of one hundred (100) feet, measured from the intersection of the centerlines.

4. At the intersection of residential streets, the radius of the curb or edge of the shoulder shall be a minimum of twenty-five feet (25'). At the intersection of commercial/industrial streets, the radius of the curb or edge of the shoulder shall be a minimum of thirty-five feet (35').
5. The minimum radius of intersecting rights-of-way lines shall be forty (40) feet.
6. At local street intersections and commercial/industrial use

driveways a seventy-five (75) foot clear sight triangle shall be provided, in which no building or structure, business related sign, wall, fence, hedge, tree, shrub or other growth shall be placed except for utility poles, light standards, street signs and fire hydrants. The clear sight triangle shall be depicted on the approved plan.

- R. Private Rights-of-Way. The Supervisors, upon the recommendation of the Planning Commission, may, at the Board's discretion, grant modification of the requirement that lots or developments be accessed by a public street if the literal enforcement of said requirement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that the modification shall not be contrary to the public interest and that the purpose and intent of the ordinance is observed, and further provided that each lot or development is sufficiently accessed by a private right-of-way which shall be a minimum of fifty (50) feet in width, and shall be adequately designed to safely accommodate the traffic expected from the proposed and foreseeable development, and provided further that the proposed private right-of-way shall not be required to carry significant traffic. It shall be the responsibility of the applicant to substantiate adequately the need for such relief in accordance with Article 15.

1. Private rights-of-way shall not be approved if:
  - a) A bridge or other structure is located on the private right-of-way which is not in conformity with standards determined appropriate by the Township Engineer.
  - b) Access to the properties serviced by the private right-of-way by emergency vehicles shall be inhibited.
  - c) The private right-of-way would service more than three (3) dwelling units, lots, or other units of occupancy
  - d) The private right-of-way is to be located on the turn-around portion of a cul-de-sac street.
  
2. The private right-of-way shall be improved with a dustless surface as specified on the Final Plan. When serving more

than one lot, a minimum of 6" shale and 2" 2A modified shall be required along with a minimum cartway width of eighteen (18) feet with the cartway placed in the center of said right-of-way. Rights-of-way serving more than one lot shall have the entire fifty (50) foot right-of-way cleared of all obstacles (i.e. trees, shrubs, rocks, structures, ... etc.) and shall be planted in grass. Any private right-of-way serving one (1) lot and running through or between existing lots shall be a minimum of 8" shale up to the point where the bordering lots end and shall have the cartway placed in the center of said right-of-way.

3. A clear site distance shall be provided in accordance with Section 903K.
4. Whenever a subdivider or developer proposes to provide access to a subdivision or development by a private right-of-way, the Township shall require that he submit two (2) copies of a proposed Agreement on Plan as well as two (2) copies of an appropriate deed restriction. The Agreement and deed restriction shall establish responsibility for street maintenance and repair, right-of-way maintenance including mowing, snow and ice removal, maintenance of clear sight distance within the clear sight triangle, and upkeep of the road bed and drainage facilities. Said Agreement shall be provided on the plans and recorded with the final subdivision or land development plan.
5. Security shall be posted for private rights-of-way to ensure completion of any improvements, in accordance with Article 14.

S. Access by Panhandle Design. It is the desire of North Newton Township to minimize the use of panhandle lots in new subdivision design. However, it is recognized that there may be circumstances which promote the use of a panhandle design as the best, most practical means of access to otherwise landlocked tracts, or to allow subdivision of an excessively deep tract with little frontage. Therefore, the Board of Supervisors, upon the recommendation of the Planning Commission, may approve the utilization of panhandle lots to provide access provided that the topography of the land to be developed and the adjacent public street shall safely accommodate the number of

proposed access areas. Where traffic safety would be promoted, the Township may require adjacent panhandled lots to share one access road and the Township may require a formal written covenant to run with the land to establish rights and responsibilities of the panhandle lot owners. Access roads for panhandle lots shall be a minimum of 8" shale up to the points where the existing bordering lots end, and the cartway shall be placed in the center of said panhandle.

Frontage on an existing or proposed public street is required to be at least fifty (50) feet for a single panhandle lot and seventy-five (75) feet for two (2) adjacent panhandle lots together sharing one (1) access road.

The area of a panhandle lot for determining compliance with the minimum lot area requirements of this ordinance shall not include the area of the "panhandle". All required setbacks are relative to the interior portion of the lot, not the "panhandle".

The applicant shall request permission for panhandle design in writing at the time of plan submittal, or sketch plan review. The request shall be treated as a modification of ordinance requirements, and it shall be the responsibility of the applicant to substantiate adequately the need for such relief in accordance with Article 15.

#### **Section 904. Streets, Construction Specifications.**

Streets must be surfaced to the grades and dimensions drawn on the plans, profiles, and cross-sections submitted by the applicant and approved by the Board of Supervisors. Before paving the street's surface, the applicant must install the required utilities and provide, where necessary, adequate storm water drainage for the street, acceptable to the Supervisors. The pavement base, wearing surface, and shoulders must be constructed according to the following specifications:

- A. All components of street construction shall conform to the specifications set forth in Publication 408, 2007, published by the Commonwealth of Pennsylvania, Department of Transportation, as updated or amended.
  
- B. Prior to placement of stone base material, the Township shall be contacted to determine the suitability of the compaction and grading of the sub-grade material.

- C. Prior to placement of the binder paving, the Township shall be contacted to determine the suitability of the compaction and grading of the stone base material.
- D. Two working days prior to placing any pavement, the Township shall be notified of the proposed work so that a Township representative can be on-site while the pavement is being placed.
- E. All subgrade, stone base material, subbase pavement (if applicable), and base pavement must lay over the winter months through May 1, before being paved with the wearing course. The wearing course shall only be placed between May 1 and October 31.

F. Residential Streets

- 1. Subgrade. All topsoil shall be removed to the natural subsoil and the proposed roadway brought up to subgrade level with approved shale a minimum of thirty-four (34) feet wide.
- 2. Subbase. A minimum of six (6) inches of PA D.O.T. 2A coarse aggregate, rolled and compacted, shall be placed a minimum of thirty (30) feet wide for cartway and shoulder construction. As an alternative, a minimum of four (4) inches of approved shale, rolled and compacted, and then a minimum of four (4) inches of PA D.O.T. 2A coarse aggregate, rolled and compacted, shall be placed a minimum of thirty (30) feet wide for cartway and shoulder construction.
- 3. Binder. A minimum of three and one-half (3.5) inches of 25mm Superpave Mix, rolled and compacted, shall be placed a minimum of twenty-eight (28) feet wide for cartway and shoulder construction.
- 4. Wearing. A minimum of two (2.0) inches of 9.5mm Superpave Mix, rolled and compacted shall be placed a minimum of twenty-eight (28) feet wide for cartway and shoulder construction.

G. Commercial and Industrial Streets

- 1. Subgrade. All topsoil shall be removed to the natural subsoil and the

proposed roadway brought up to subgrade level with approved shale a minimum of forty-two (42) feet wide.

2. Subbase. A minimum of eight (8) inches of PA D.O.T. 2A coarse aggregate, rolled and compacted, shall be placed a minimum of thirty-eight (38) feet wide for cartway and shoulder construction. As an alternative, a minimum of six (6) inches of approved shale, rolled and compacted, and then a minimum of four (4) inches of PA D.O.T. 2A coarse aggregate, rolled and compacted, shall be placed a minimum of thirty-eight (38) feet wide for cartway and shoulder construction.
  3. Base Pavement. A minimum of six (6) inches of 37.5 mm Superpave Mix, rolled and compacted, shall be placed a minimum of thirty-six (36) feet wide for cartway and shoulder construction. BCBC shall be placed and compacted in lifts with a maximum depth of three (3) inches.
  4. Wearing. A minimum of one and one-half (1.5) inches of 9.5mm Superpave Mix, rolled and compacted shall be placed a minimum of thirty-six (36) feet wide for cartway and shoulder construction.
- H. Shoulder Area and Striping. The outermost three (3) feet on either side of the twenty-eight (28) foot pavement for residential streets and the outermost six (6) feet on either side of the thirty-six (36) foot pavement for commercial and industrial streets shall be designated as the shoulder area. Shoulder areas on all streets shall be constructed with full depth cartway construction materials. Striping – A four-inch-wide, yellow, painted line shall be provided along the centerline of all newly constructed streets prior to being offered for dedication to the Township. Line painting shall be completed in accordance with the applicable PennD.O.T. specifications.

#### **Section 905. Access Drives and Driveways.**

Whenever required and/or provided under the provisions of this ordinance, all access drives and driveways shall be designed according to the following standards.

- A. The general layout shall be such that there will be no need for motorists to back into the public road right-of-way.
- B. Access drives for non-residential uses shall be paved between the street and

dedicated right-of-way line in accordance with the Township specifications for street construction. Within this area, the driveway pavement shall not be less than twenty-four (24) feet in width, nor exceed thirty-five (35) feet except as increased by the curb or pavement radii.

- C. The minimum radius of the curb or edge of pavement at commercial or industrial driveway entrances shall be thirty-five feet (35’).
- D. Access drives and driveways shall not cross the street right-of-way lines:
  - 1. Within fifty (50) feet of the street right-of-way line of an intersecting street, and in no case less than ten (10) feet from the point of tangency when the intersecting street lines are joined by a curve. This dimension may be increased for access drives to shopping centers, or other commercial, industrial, public or institutional uses.
  - 2. Within ten (10) feet of a fire hydrant, catch basin or drain inlet.
  - 3. Within forty (40) feet of another access drive or driveway.
  - 4. Within three (3) feet of a property line unless two adjoining owners mutually agree to a common access drive.
- E. Access to the public highway or street shall be controlled in the interest of public safety. Off-street parking, loading, and service areas that are used for non-residential purposes and are within 30 feet of a reserved, or dedicated, road right-of-way line, shall be physically separated from the highway or street by a curb or fence, and a planting strip.
- E. Access drives and driveways shall be located in safe relationship to minimum safe stopping sight distances used by the Pennsylvania Department of Transportation, based on posted speed limits and average centerline slope, as well as to barriers to vision. Access drives and driveways shall not exceed a slope of seven (7) percent within twelve (12) feet of the street line. When drives enter a bank through a cut, unless a retaining wall is used, the side slopes of the cut shall be graded to not more than one (1) foot vertical to two (2) feet horizontal within ten (10) feet of the point the drive intersects with the right-of-way line.
- G. At commercial and industrial driveway entrances a seventy-five foot (75’) clear sight triangle shall be provided, in which no building or structure, business related sign, wall, fence, hedge, tree, shrub or other growth shall be

placed except for utility poles, light standards, street signs and fire hydrants. The clear sight triangle shall be depicted on the approved plan.

**Section 906. Easements.**

- A. When easements are required for any utility serving a subdivision or land development, they must be a minimum of twenty (20) feet wide and must, to the fullest extent possible, be adjacent to or centered on rear or side lot lines.
- B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a drainage easement conforming substantially with the line of such water course, drainage way, channel or stream, and of such width as will be adequate to preserve the unimpeded flow of natural drainage as required by this ordinance, or for the purpose of widening, deepening, relocating, improving or protecting such drainage facilities, or for the purpose of installing a stormwater piping.

**Section 907. Monuments and Markers.**

- A. At least two (2) permanent survey monuments must be located and set for any subdivision or land development plan. These monuments should be located at the intersection of lines forming angles in the boundary of the subdivision or land development, or at the intersection of street right-of-way lines. Monuments shall also be set at such intermediate points as may be required by the Township Engineer.
- B. Monuments shall be four (4) inches square or four (4) inches in diameter and shall be thirty inches long. They shall be made of concrete, stone, or by setting a four (4) inch cast iron or steel pipe filled with concrete. Monuments shall be marked on top with a copper or brass plate or cross, or with a pin or dowel set in the concrete.
- C. Iron pin markers shall consist of iron or steel pipes or bars not less than one-half (1/2) inch in diameter, and not less than twenty-four (24) inches long. Markers shall be set at all corners except those that are monumented, at the beginning and ending of all curves along street property lines, and at all points where lot lines intersect curves, either front or rear.
- D. Monuments and markers must be placed so that the scored or marked point coincides exactly with the point of intersection of the lines being monumented. They must be set so that the top of the monument or marker is level with the finished grade of the surrounding ground.

**Section 908. Curbs.**

- A. The Township may require that wherever a proposed subdivision or land development averages three (3) or more lots per gross acre or six (6) or more dwelling units per gross acre or contains a building or buildings totaling twenty thousand (20,000) square feet or more, or where any subdivision or land development is immediately adjacent to or within one thousand (1,000) feet of any existing subdivision or land development having curbs, curbing shall be installed on each side of the street surface in accordance with the Township's specifications. The Township may require the installation of curbs in any subdivision or land development where the evidence indicates that such improvements are necessary.
- B. Curbs shall be constructed of cement concrete, eighteen (18) inches in total height, eight (8) inches thick, with a one (1) inch bevel at the top. The curb reveal from the road surface shall be eight (8) inches. Material and installation specifications shall follow current PennDOT Form 408 requirements.
- C. The Board of Supervisors, upon recommendation by the Planning Commission, may waive a requirement for the construction of curbs. A written request for such consideration shall be submitted by the subdivider/developer, and it shall be acted upon in accordance with the provisions of Article 15.

**Section 909. Sidewalks.**

- A. The Township may require that wherever a proposed subdivision or land development averages three (3) or more lots per gross acre or six (6) or more dwelling units per gross acre or contains a building or buildings totaling twenty thousand (20,000) square feet or more, or where any subdivision or land development is immediately adjacent to or within one thousand (1,000) feet of any existing subdivision or land development having sidewalks, sidewalks shall be installed on at least one side of the street in accordance with the Township's specifications. The Township may require the installation of sidewalks in any subdivision or land development where the evidence indicates that such improvements are necessary.
- B. Sidewalks shall be located within the right-of-way of the street, shall be four (4) feet in width. They shall be constructed of cement concrete according to the standards set forth in the most recent edition or revision of PennDOT Form 408 Specifications. A three (3) foot wide grass strip shall be provided

between the curb and sidewalk.

- C. The Board of Supervisors, upon recommendation by the Planning Commission, may waive a requirement for the construction of sidewalks. A written request for such consideration shall be submitted by the subdivider/developer, and it shall be acted upon in accordance with the provisions of Article 15.

**Section 910. Sewers and Water.**

- A. Where a public sanitary sewer system is within two hundred (200) feet, or where plans approved by the municipality provide for the installation of such public sanitary sewer facilities to within two hundred (200) feet of a proposed subdivision, the subdivider shall provide the subdivision with a complete sanitary sewer system, if, in the Supervisor's opinion, and on the recommendation of the Planning Commission, it is feasible.
- B. Where the installation of a sanitary sewer system is not required, the subdivider or owner of the lot shall provide for each lot, at the time improvements are erected thereon, a private sewage disposal system consisting of a septic tank and tile absorption field or other approved sewage disposal system. All such individual sewage disposal systems shall be constructed in accordance with the "Rules and Regulations of the Pennsylvania Department of Environmental Protection."
- C. Where a private, community sewerage system is proposed, such system shall be subject to approval of the Pennsylvania Department of Environmental Protection before approval by the Township. As a condition of Township approval, the Board, upon recommendation of the Planning Commission, may establish terms for future acceptance of such system on behalf of the Sewer Authority, which may include a deferral of acceptance or a permanent refusal to accept. The design and installation shall be subject to the approval of the entity having jurisdiction as a condition of Township approval. All private, community sewerage systems shall be owned and maintained by a perpetual entity and such ownership and maintenance responsibility shall be clearly established as a condition of final plan approval.
- D. Where a water main supply system is within two hundred (200) feet of a proposed subdivision, or where plans approved by the municipality provide for the installation of such public water facilities, the subdivider shall provide the subdivision with a complete water main supply system to be connected to the existing or proposed water main supply system if, in the Supervisor's

opinion, and on the recommendation of the Planning Commission, it is feasible. The design and installation shall be subject to the approval of the agency or entity having jurisdiction as a condition of Township approval.

- E. Where a private, community water system is proposed, such system shall be subject to the applicable approval of the Pennsylvania Department of Environmental Protection before approval by the Township. As a condition of Township approval, the Board, upon recommendation of the Planning Commission, may establish terms for future acceptance of such system which may include a deferral of acceptance or a permanent refusal to accept. All private, community water systems shall be owned and maintained by a perpetual entity and such ownership and maintenance responsibility shall be clearly established as a condition of Final Plan approval.
- F. Where water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Board of Supervisors that the subdivision or development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority, or utility. A copy of 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 evidence.

#### **Section 911. Stormwater Management/Erosion and Sedimentation Control**

- A. Authority. Act 247 of July 31, 1968, the Pennsylvania Municipalities Planning Code, as amended, has authorized that the governing body of each municipality may regulate subdivision and land developments. In addition, Act 167 of October 4, 1978, the Storm Water Management Act, authorizes the regulation of land and water for flood control and storm water management purposes, imposing duties and conferring powers on the Department of Environmental Protection, municipalities and counties, providing for enforcement and making appropriations; and Chapter 102 of the Rules and Regulations of the Department of Environmental Protection, Subpart C - Protection of Natural Resources, Article II Water Resources, imposes requirements on earthmoving activities which create accelerated erosion or a danger of accelerated erosion and which require planning and implementation of effective soil conservation measures.
- B. Applicability.

1. No person, partnership, business or corporation shall undertake any of the following activities without written approval from the Township:
  - a) Earth disturbing activity involving two acres or more, except agricultural activity, provided such activity conforms to USDA Soil Conservation Service guidelines;
  - b) Diversion or piping of any natural or man-made stream channel;
  - c) Installation of storm water collection or conveyance systems or appurtenances thereto;
  - d) Placement of fill, structure, or pipes in the flood plain as designated on the official flood plain map, and as may be documented by other pertinent sources of flood plain information, used by the Township;
  - e) Land development;
  - f) Land subdivisions; or
  - g) Installation of impervious cover, 10,000 square feet or more in area.
  
2. The Township may waive the requirement of this section for residential subdivisions involving not more than three lots; however, no successive three lot phases shall be permitted. In addition, the Township may waive the requirement of certain items of the Erosion and Sedimentation Control/Storm Water Management Plan outlined in Section 911.C. (below) upon the recommendation of the Township Engineer.

C. Plan Content. The Erosion and Sedimentation Control/Storm Water Management Plan hereafter referred to as ESC/SWM Plan shall consist of a map(s) and a narrative. For subdivision and land development activities, it shall be included as part of the total land subdivision and development submission(s) to the Township and shall include the following items:

1. A general statement of the project, including the date the project is expected to begin and expected date final stabilization shall be

completed, shall be included in the narrative. The project location shall be shown on a seven and one-half minute USGS topographic map.

2. Topographic features of the project area which shall be shown on the map are as follows:
  - a) Existing and finished contours, at two (2) foot intervals except in areas where slope is greater than fifteen percent (15%), in which case the contour interval shall be five (5) feet. The existing contours shall be determined from an actual field survey of the areas where the site will be disturbed;
  - b) Boundary lines of the project area; and
  - c) Existing drainage on project and adjoining properties such as flood plain, streams, lakes, ponds and easements.
3. The proposed alteration to the area shall be shown on the map, including lots, streets, parking areas, storm drainage (piping and inlets), erosion control facilities, areas of cut and fill and the limits of earth disturbance and storm water management facilities. The ESC/SWM Plan shall be designed to preserve existing natural drainage areas within proposed subdivisions and developments whenever possible, and shall demonstrate clearly the need for any proposed earth disturbance or alteration of natural drainage areas.
4. Runoff Calculations for Control Facilities.
  - a) Volumes of runoff from the drainage area(s) shall be calculated to determine the sizing of temporary and permanent facilities to control stormwater and erosion. For the purposes of this article, storm events are based on the amount of runoff during a period of twenty-four (24) hours as follows:

**Storm Frequency (Years)    Rainfall (Inches)**

**2**

**2.9**

<b>5</b>	<b>3.9</b>
<b>10</b>	<b>4.8</b>
<b>25</b>	<b>5.2</b>
<b>50</b>	<b>5.9</b>
<b>100</b>	<b>6.5</b>

- b) Design of the erosion and sedimentation control management facilities outlined in the plan requires that runoff calculations be made for the site and areas which contribute drainage to the site. These calculations should be based on land use, time of concentration and other standard aspects of hydraulic analysis.

Temporary Control Measures/Facilities. Runoff calculations of the site's condition during development shall be used to size temporary control measures.

Permanent Control Measures/Facilities. Permanent storm water control facilities shall be used to control runoff from land development facilities. In most cases, permanent control measures/facilities shall be designed to assure that the maximum rate of storm water runoff is no greater after development than prior to development activities for the 2, 5, 10 and 25 year storm events. Calculation of the pre-development peak discharge shall presume a good condition meadow cover for all open areas with separate calculations made for other pre-development conditions. In those cases where the existing storm drainage facilities and/or road embankments control pre-development discharge from the site, pre-development conditions shall be simulated in the post-development design for each of the storm events referenced above.

- c) Runoff calculations shall also include complete hydrologic and hydraulic analysis of all erosion control facilities including, but not limited to:

Velocities of slopes, capacity and roughness coefficient of conduits and grassed waterways; and

Capacity of sediment basins and permanent holding ponds.

d) Computations for determining storm water runoff and v for the design of storm water management facilities for sites with drainage areas greater than 20 acres shall be based upon the Soil-Cover-Complex method described in either TR-55, Urban Hydrology for Small Watersheds; the United States Department of Agriculture, Soil Conservation Service Engineering Field Manual; or the Soil Conservation Service National Engineering Handbook, Section 4. For sites with drainage areas less than 20 acres, the Soil-Cover-Complex method or the Rational Method may be used. Computations based upon an alternative method may be accepted upon recommendation of the Township Engineer and approval of Township Supervisors.

5. The staging of earth disturbing activities shall be described in the narrative, detailing the sequence of erosion control installation in relation to the installation of improvements.
6. Temporary and permanent control measures and facilities, including holding facilities and swales, shall be shown on the map and described in the narrative.
7. A maintenance program for control facilities shall be included in the narrative, describing the method of disposal of materials removed from the control facilities or the project area.

D. Design Criteria For Erosion Control Facilities.

1. In those areas involving residential development where no new improvements are being proposed (i.e. no new streets, drainage ways, detention ponds, etc.) a typical individual lot Erosion and Sedimentation Control Plan shall be placed on the subdivision or land development plan. In all other instances, an Erosion and Sedimentation Control Plan shall be submitted to the Cumberland County Conservation District for their review prior to Final Plan

approval.

2. Grassed waterways may be used in place of conduit piping in those areas where soil conditions allow recharge of ground water. The usage of grassed waterways is not recommended in areas of year round or seasonally high ground water tables unless provision is made to handle long duration flows, for example, by means of subsurface drainage or stone-centered waterways.
3. Any basins with slopes steeper than three-to-one (3:1) may be required to be fenced with a six (6) foot high fence of a material acceptable to the Township. The Board of Supervisors shall make the decision to require fencing based on potential hazards at the site such as detention versus retention capability, slope, depth of water and length of detention time.
4. Detention basins may be waived by the Township, upon recommendation of the Township Engineer, at sites in close proximity to major streams, depending on the hydrology of the watershed. This is to facilitate drainage prior to stream flooding.

E. Construction Standards For Erosion Control Facilities.

1. Construction standards for erosion control facilities shall be in accordance with the approved plans and accompanying specifications. Controls shall be installed at initial stages of earthmoving and otherwise as outlined in the staging of earthmoving activities section of the soil erosion and sedimentation control plan.

F. Maintenance Criteria For Erosion Control Facilities.

1. Maintenance of the erosion control facilities during construction shall be performed in accordance with the approved E & S Plan and be the responsibility of the developer and/or landowner and shall usually include but not be limited to:
  - a) Removal of silt from all basins, traps, or other structures.
  - b) Periodic maintenance of temporary control facilities such as replacement of straw bale dikes, silt fence or similar measures;

- c) Establishment or reestablishment of vegetation by seeding and mulching or sodding of scoured areas or areas where vegetation has not successfully been established;
- d) Installation of necessary controls to correct unforeseen problems caused by storm events within design frequencies; and
- e) The contractor or developer shall be responsible for removal of all temporary measures and installation of permanent measures upon completion of the project.

G. Design Criteria For Storm Water Collection System.

1. General. The engineering design criteria for storm water collection systems shall be storms of the ten (10) year frequency, unless other frequencies are required by Chapter 105 of the Department of Environmental Protection regulations, with intensities based on the times of concentration, land use and other accepted design factors for each drainage area. A minimum time of concentration of five (5) minutes shall be used. The Township, pursuant to recommendations of the Engineer, may require a design storm of higher intensity to be used when on-site or surrounding conditions, such as the history of flooding downstream or the capacity of receiving stream or storm water system, indicate such a variation to be necessary.
2. Piping. A minimum pipe size of eighteen (18) inches in diameter shall be used in all roadway systems proposed for dedication to the Township. A minimum pipe size of twelve (12) inches in diameter is permitted on private facilities which receive no off-site drainage. Pipes shall be designed so as to provide a minimum velocity of two and one-half (2 1/2) feet per second when flowing full. Arch pipe may be used in lieu of round pipe where cover or utility conflict conditions exist.

All pipe to be installed under an existing or propose street shall be reinforced concrete. Pipe being installed in any location other than under an existing or proposed street shall be reinforced concrete or smooth lined corrugated plastic.

In the event that a culvert passes beneath a public roadway, it shall be designed in such a manner to prevent the roadway from being

inundated during a 25 year storm.

All storm drainage piping discharging to the ground surface shall be provided with either reinforced concrete headwalls or end sections compatible with the pipe size involved. A rip-rap apron of adequate length shall be provided at all surface discharge points in order to minimize erosion. The apron shall extend to the crown of the pipe. Rip-rap size shall be determined by the flow velocity leaving the system as follows:

<b>Flow Velocity</b> (feet/second)	<b>Average Stone Size</b> (inches)
<b>Up to 6</b>	<b>6 - 8</b>
<b>6 to 9</b>	<b>8 - 12</b>
<b>Greater than 9</b>	<b>Specialized Design Required</b>

All precautions should be taken to limit the discharge velocity from storm drainage systems to six (6) feet per second. Baffle systems, drop manholes or other appurtenances should be used to control velocity.

3. Inlets. If required by this ordinance, storm drainage inlets shall be provided at all low points and hydraulically intermediate points on a system. Location and spacing of inlets shall be based on the hydraulic capacity of each inlet related to the flow received and amount of flow bypassed from upstream inlets. Inlets shall be placed so street drainage shall not cross intersections or street crowns.

All inlet tops shall be pre-cast concrete with heavy-duty steel grating. Weep holes shall be provided on all inlet tops. Where curbing is required, all street inlet tops shall be the combination curb and gutter inlet PennDOT Type "C", with a ten (10) inch curb reveal to allow an automatic depressed condition to exist when used on an eight (8) inch curb. Where curbing is not required, PennDOT Type "M" inlet tops shall be installed. Inlet foundations shall be a minimum of eight (8) inches of plain concrete. Inlet walls shall be pre-cast concrete. All pipes entering or exiting inlets shall be cut flush with the inlet wall.

4. Roof Leaders, Foundation Drains, Springs and Sump Pumps. All roof leaders shall be connected to the storm sewer system or, where site conditions permit, be drained overland to street or yard areas. Foundation drains, sump pumps and springs shall be connected directly to the nearest practical storm sewer system. In order to reduce runoff from developed areas, underground basin drains are permitted to which roof leaders may be connected.

These drains consist of stone-filled basins which temporarily store and release water below ground surface. Plans for such basins shall be submitted to the Township for approval, and the basins shall be used only in those areas where soils, geologic and water table conditions permit.

All underground or surface springs encountered during or after construction of roadways or buildings shall be adequately piped or drained to the nearest storm drainage system. The Township Roadway Inspector or Township Engineer shall be contacted when a spring is encountered.

The Inspector or Engineer shall make a site investigation and make written recommendations to the developer for correcting the problem. Such recommendations shall be binding on the developer unless the Board of Supervisors, upon the request of the developer, agrees to permit an alternative solution.

Sub-base drains shall be provided at all low points in cut areas, toe of slope areas and other areas as dictated by proven engineering principles and design judgement. Sub-base drains shall be designed and constructed in accordance with the Pennsylvania Department of Transportation Design Criteria and Form 408 Specifications. All drains shall be connected to a storm drainage system.

All land development projects shall be designed and constructed in order to provide proper drainage of storm water runoff. All lot and open areas shall be designed to drain to the nearest practical street or drainage system with minimal impact on adjoining properties, unless an area specifically designed for storm water detention is provided.

5. Compliance with Department of Environmental Protection (DEP) Chapter 105 Regulations. The design criteria contained in this article are intended for usage in conjunction with the Chapter 105

Regulations of the Pennsylvania Department of Environmental Protection entitled, "Water Obstructions and Encroachments". All information and regulations contained in Chapter 105 shall be considered to be incorporated into this article as if reproduced in full.

A DEP permit in accordance with Chapter 105 shall be required for any obstruction or encroachment in the regulated waters of the Commonwealth, prior to the approval of the final plan. In the event any question or conflict arises between this article and the Chapter 105 Regulations, the design criteria contained in the Chapter 105 regulations shall govern.

6. Compliance with Pennsylvania Department of Transportation Form 408 Specifications. All materials, workmanship and methods of work shall comply with the Pennsylvania Department of Transportation Form 408 Specifications, as accepted and commonly used by the Township, and shall be considered to be incorporated into this article as if copied in full. In the event a conflict arises between the requirements of this article and the Form 408 Specifications, the Township Engineer shall resolve the difference, and his opinion shall be binding.

H. Review and Approval.

1. In the case of subdivision and/or land development activities, the ESC/SWM Plan shall be submitted to the Township with the subdivision plan to allow for timely review and inclusion in the final subdivision plan of any revision(s) which may result from the reviews of the Cumberland County Planning Commission and the Cumberland County Conservation District.
  - a) Evidence that the ESC/SWM Plan has been submitted to the Township and Cumberland County Conservation District shall be presented to the Planning Commission.
  - b) The review and comments of the Cumberland County Conservation District and Township Engineer shall be considered by the Board of Supervisors in taking action on subdivision and land development plans.
2. The final ESC/SWM Plan approved by the Township shall become a

supplement to the final subdivision plan and be subject to all rules, regulations and procedures pertaining thereto.

## **Section 912. Recreational Requirements**

Each subdivision and land development shall construct and dedicate recreational facilities and land, or pay a fee-in-lieu of such construction and dedication to the Township in accordance with the following requirements:

### **A. Construction and Dedication of Recreational Facilities**

1. Recreation Study: Where a subdivider/developer proposes to construct and dedicate recreational facilities and land to the Township, a Recreation Study shall be submitted along with the Plan Submission, prepared by a professional with demonstrated experience in the planning and design of recreational facilities and amenities which addresses the following:

a.) Demographic Analysis: Identify the anticipated composition and characteristics of the occupants of the proposed subdivision or land development; the expected types of recreational amenities to be provided; and why the land where the recreational facilities are proposed adequately accommodates the recreational function including attendant off street parking facilities.

b.) Land Area Requirements for Dedication:

- (1.) A minimum of 1,500 square feet of suitable recreation land shall be dedicated for each dwelling unit within a residential subdivision or land development.
- (2.) A minimum of 10% of the net land area in any non-residential subdivision or land development shall be established for recreation.
- (3.) Land offered for dedication shall be contiguous and shall not be less than ten (10) acres.

c.) Criteria for determining location and suitability.

- (1.) The proposed recreation area to be dedicated shall comply with and be subject to the following criteria:

- (a) Be easily and safely accessible, have good ingress and egress and have direct access to a public roadway.
- (b) Be contiguous and regular in shape.
- (c) Have suitable topography and soil conditions for use and development as a park or recreation area.
- (d) A minimum of seventy-five percent (75%) of the required area shall not exceed a slope of seven percent (7%).
- (e) No more than twenty-five (25%) of the required area may be within flood plain or wetland areas.
- (f) Be served by all available utilities, such as water, sewer and electric.
- (g) Be compatible with the objectives, guidelines and recommendations as set forth in the North Newton Township Park and Recreation Plan, as amended.

d.) Land that is subject to one or more of the following features will disqualify it for acceptance for dedication as recreational land:

- 1. Park land dedication sites abutted by existing residences where in the judgment of the Board of Supervisors the character of the proposed recreation facility would not be compatible with the existing residential neighborhood.
- 2. Areas encumbered by overhead utility lines or easements of any type that might limit the opportunity for park and recreation development.
- 3. Land used or otherwise encumbered by hazardous and/or municipal waste materials or dumpsites.
- 4. Land used for stormwater management structures.

e.) EXEMPTIONS: The following subdivisions or land developments shall be exempt from the provisions of this Section:

- (1) Subdivision of land into two (2) or more lots appropriately restricted to agricultural purposes.
- (2) Subdivision of land into two (2) or more lots for the purpose of reconciling adjoining property lines or lot additions not involving additional development.
- (3) Subdivision or land development of the Township, municipal authority, or school district.
- (4) Expansion of an existing developed non-residential building and/or structures which is required to prepare a Land Development Plan.

f.) Construction and Dedication of Recreational Facilities

Where the subdivider/developer proposes to construct and dedicate recreational facilities to the Township, the improvements shall be secured in accordance with the applicable provisions of Article 14 herein. Additionally, all land to be dedicated shall be free and clear of all liens, encumbrances and easements excepting however existing building restrictions, easements of roads; rights of public utility companies, if any. Otherwise the title to the land shall be good and marketable as will be insured by a reputable Title Insurance Company at the regular rates.

B. Payment of fee in lieu of dedication.

1. As an alternative to dedication of land, the developer or subdivider may agree to pay a fee-in-lieu of dedication.
2. The cash payment in-lieu of land dedication shall be met by the payment as determined by resolution of the Board of Supervisors as duly amended from time to time based upon a per dwelling fee for residential units and a per acreage fee for non-residential subdivisions or land developments.
3. All fees paid hereunder shall be due and payable in full upon approval of the final subdivision or land development plan or phase or section thereof and shall be paid prior to the release of any plan for recording.

4. All monies paid to the Township pursuant to this section shall be deposited and utilized in accordance with the provisions and requirements of the Pennsylvania Municipalities Planning Code.

## ARTICLE 10

### TRAFFIC IMPACT STUDIES

#### Section 1001. Requirements

The Board of Supervisors requires that all driveways and roadways be designed to accommodate the amount and type of traffic they will serve considering the type and character of the roadway that the driveway or roadway will access.

A. Purpose

These guidelines detail the procedures to be utilized when conducting a traffic impact study for a proposed site development which is expected to impact traffic operations on a Township Roadway. Such studies are necessary to define the possible magnitude of the impact(s) of the proposed development on the traffic operations of the affected Township roadway(s) and determine improvements necessary to provide for accommodation of the traffic due to the proposed development.

Studies to be conducted under these guidelines are separate from any other requirements which the municipality may have in regards to traffic impact analysis or Act 209/1990 requirements.

B. Determining the Need for a Traffic Impact Study

Traffic impact studies are conducted to enable the Board of Supervisors to identify the potential impacts of a proposed development and determine any roadway improvements necessary to provide an acceptable level of service. These studies are to be conducted during the initial stages of the site development review and approval process in order to adequately consider the impacts the development will have on the local transportation network.

Not all developments will have a significant enough impact to require a traffic impact study. The use of engineering judgement is necessary in making this determination and consideration should be given not only to changes in projected traffic volume but also safety or capacity deficiencies which could impact the roadway system.

In all cases, a traffic impact study will be conducted when, in the opinion of the Board, the site development is expected to have a significant impact on the safety and/or traffic flow of the affected roadway(s).

A traffic impact study shall be submitted along with subdivision or land development plans when any one of the following conditions exist or are created by the proposed subdivision or land development.

1. The proposed development is expected to generate 400 or more vehicle trips per day (total inbound and outbound development traffic).
2. The proposed development is expected to generate traffic flow which will be comprised of greater than fifteen (15) percent by aggregate, of trucks, buses and RV vehicles. This maximum percentage of trucks, buses and RV's will apply whether or not the development is expected to generate 400 vehicle trips per day (total inbound and outbound).
3. The total traffic flow on the adjoining roadway will exceed 250 vehicles per hour during the adjoining roadway's peak hour, and 25 or more of the vehicles are newly generated peak direction trips to or from the site.

Residential, Commercial and Industrial subdivisions shall estimate the expected vehicle trips based upon complete build-out of the subdivision, including all existing and future phases of the development.

C. Preparation of the Study

When it has been determined that a traffic impact study is required for a proposed site development, it shall be the responsibility of the developer to ensure the study is conducted and a final report submitted in accordance with these guidelines. The traffic impact study and final report shall be prepared under the supervision of a registered Professional Engineer who possesses a current license issued by the Pennsylvania State Registration Board for Professional Engineers. The final traffic impact study report must have the seal and signature of the supervising engineer on it when submitted.

The conduct of the traffic impact study must be in cooperation with

and coordinated with the appropriate State and local officials. Of special importance is the need to work closely with the involved municipal officials in determining the improvements which are to be implemented on the affected roadway(s). Where the recommended improvements will require a commitment from the municipality for continued maintenance and/or operation, such as with traffic signals, the report should indicate a commitment from the developer to accept these responsibilities.

D. Study Procedures

1. General Requirements.

The traffic impact study will be conducted using currently accepted traffic engineering practices and procedures. The use of computer programs to conduct the required analyses is acceptable; provided, the programs reflect the most current provisions of the analysis procedures upon which they are based. Recommended geometric or traffic operations improvements must meet or exceed all applicable State and/or Local minimum design criteria.

The study engineer will be responsible for the collection of all information and data required to support the study effort. When traffic counts are required for the study, the study engineer shall collect such data to include peak hour turning movements on an average day as defined in the PA Department of Transportation's Publication 201.

The procedures and requirements outlined in these guidelines are intended to provide a basic framework for the conduct of a traffic impact study. Additions or modifications to this framework may be made provided such changes are approved by the Township.

2. Study Area Characteristics.

The limits for the study area should be based upon engineering judgement and a knowledge of the existing traffic conditions in the vicinity of the proposed site development. The area must be of sufficient size to include the key roadway corridors and critical intersections which may be impacted by the proposed site traffic.

Existing and proposed land uses in the study area must be considered in the study. Where the current/proposed land use of the site is being modified, an analysis of the proposed changes should be made to determine the extent to which traffic volumes for the site must be modified.

Characteristics of the study area roadway network, intersections and the proposed site access point(s) to include geometrics and traffic control need to be identified as part of the study. Included in this identification will be all driveways adjacent to or across from the proposed site access point(s).

3. Traffic Analysis.

The study area roadway network is to be analyzed for safety and capacity sufficiency for three separate conditions: Existing network conditions, future network conditions without the proposed development, and future network conditions with the proposed development. For each of the three conditions the following analyses shall be completed.

- a) Mainline ADT volumes and turning movement volumes for all critical intersections within the study area will be determined for the A.M. peak hour, P.M. peak hour and the proposed development peak hour if other than either the A.M. or P.M. peak hour of the network.
- b) The effectiveness of the traffic signal control at all critical intersections will be evaluated by approach in terms of vehicle stops and delays.
- c) Gap studies will be conducted at the proposed site access points to evaluate the need for signal control, turn prohibitions or additional site access points to reduce the left turn volume from the site driveway(s).

- d) Queue length studies will be completed to evaluate the potential for a backup of traffic from controlled intersections which could impact other intersections including access points to the proposed development.
- e) An analysis of the volume and capacity of the network and all critical intersections will be conducted utilizing the most current Highway Capacity Manual procedures. Levels of service will be determined and documented.

The analysis of the existing roadway and intersection conditions in the study area will be based upon the current geometric conditions and traffic control operations. This analysis will serve as a basis for determining the current adequacy of the roadway network and to document any deficiencies.

The analysis of the future conditions without the proposed development will document the adequacy of the study area network to accommodate traffic in the design year(s) without the proposed development. This analysis must include a full consideration of all committed roadway improvements to the study area network when determining the expected levels of service. For the analysis of the future conditions with the proposed development, one of the key factors will be the development of the projected site generated traffic and its distribution on the study area network. The study preparer must fully document the methodology which was used to complete this effort and provide sufficient information such that the Board can verify the results. In addition, care must be taken to ensure that adequate consideration is given to that portion of the already projected future network traffic which will utilize the proposed development access points. (Failure to account for this “captured” traffic will result in a “double counting” of a portion of the future traffic.)

#### 4. Improvement Recommendations.

The overall goal of this section will be to detail necessary improvements to the study area roadway network which will provide for a level of service for the design year(s) with the development which is at least equivalent to the projected level of service for the design year(s) without the proposed development. Based upon a comparison of the traffic analysis for the future conditions with and without the proposed development, roadway and traffic operational improvements which will support this goal are to be identified and analyzed. These improvements may include both on-site and off-site roadway and traffic operational changes as determined by the preceding analyses.

In developing the proposed improvements, the study preparer is to consider the following:

- a) All roadway capacity evaluations shall consider not only the overall intersection level of service and delay but also evaluate each approach and movement to identify any substandard values which need to be improved.
- b) For locations where the level of service of the design year without the proposed development is F, the improvements shall provide an estimated delay which will be no worse than the delay for the design year without the proposed development.
- c) Where new intersections are being established to serve as access to the proposed development, these intersections must be designed to at least operate at Level of Service C or better (rural conditions) or Level of Service D or better (urban conditions).
- d) For access points to the proposed development, which are not proposed to be controlled by a traffic signal, an analysis will be completed to determine the design details for a separate left turn lane on the adjoining highway.
- e) For access points to the proposed development where traffic signal control is being proposed, a traffic signal

warrant analysis shall be performed in accordance with the requirements of the PA Department of Transportation's Publication 201. Although a left turn lane shall be provided, an analysis shall be completed to determine the type of signal phasing required.

The final recommended study area network with proposed improvements will also be subjected to all the traffic analyses which are required under the previous section of these guidelines. These analyses will serve to document the "adequacy" of the improvements.

E. Final Report

1. General.

A final report must be prepared to document the results of the traffic impact study and the recommended improvements to accommodate the projected traffic due to the proposed development. Since this report will be reviewed by officials with varying levels of technical expertise, the report must be presented in a format and context which can be understood by both technical and non-technical parties.

The presentation of data and analyzes results should, preferably, be accomplished on either schematic diagrams of the study area, or through the use of charts and/or tables. All sources of data and methodologies which were used in the study (including computer programs) must be properly referenced and procedures must be properly documented to enable a review of the appropriateness of the modification.

1. Contents.

The final report will include the following:

- a) Executive summary which provides a concise description of the study area, results of the traffic analyses and any recommended improvements.
- b) Description of the proposed development site to include a map showing the sites location in regards to the

region and the area roadway network.

- c) Schematic diagram/map of the designated study area showing all major roadways and critical intersections.
- d) Results of the traffic analyses for the three traffic conditions. At a minimum, the following data must be shown for each of the three conditions:
  - i) Mainline ADT and intersection turning movement counts.
  - ii) Levels of service.
  - iii) Projected traffic distribution and network assignment for the proposed site.
  - iv) Recommended improvements to the study area network to include preliminary cost estimates, proposed implementation schedule and expected levels of service for the recommended network.

### **Section 1002. Exceptions**

The general principles of design and the minimum requirements for the laying out of subdivisions and land developments stipulated in This Ordinance may be varied by the Board of Supervisors in the case of a project large enough to constitute self-contained neighborhood, industrial park or commercial center. Such a project shall be developed in accordance with a comprehensive plan which in the judgement of the Board has made adequate provisions for all essential requirements. Provided, however, that no modification shall be granted by the Board which would conflict with features of any adopted long-range plan of the Township or with the intent and purpose of the general principles of design of this Ordinance. Any request for an exemption shall be in writing and shall satisfactorily set forth the reasons therein.

## ARTICLE 11

### MOBILEHOME PARK REGULATIONS AND MOBILEHOMES LOCATED OUTSIDE OF MOBILEHOME PARKS

#### **Section 1100. Mobile Home Parks - Procedure.**

No person, firm or corporation shall construct, maintain or operate a mobile home park within the Township without obtaining a Mobile Home Park Permit from North Newton Township. The procedures for reviewing mobile home park plans shall be the same as for subdivision and land development projects in accordance with the provisions of this ordinance.

#### **Section 1101. Mobile Home Parks - Plan Requirements.**

Prior to the issuance of a Mobile Home Park Permit, plans shall be submitted to and approved by the Township in accordance with the requirements and procedures of this ordinance regarding pre-application consultation, preliminary plans and final record plans, including review and filing fees. In addition to the site plan information required elsewhere in this ordinance, the following information shall be provided on the plans:

- A. The location and use of proposed buildings or structure improvements.
- B. The location and design of all uses not requiring structures such as recreation areas and landscaping.

#### **Section 1102. Renewable Mobile Home Park Permits and Registers.**

- A. The Board of Supervisors may grant a Mobile Home Park Permit for a period not to exceed twelve (12) months from the date of approval of such permit, which shall be renewable every twelve (12) months. The Board of Supervisors or its duly authorized representative shall inspect each mobile home park prior to granting or renewing an annual permit for conformance with the provisions of this ordinance and any other applicable regulations.

Each application for an original permit or renewal permit shall be accompanied by an inspection fee in the amount set by Resolution of the Board of Supervisors. Such fee amount may be changed by subsequent Resolutions of the Board. In the event the actual cost of inspection services exceeds the fee amount, the additional cost shall be borne by the applicant.

- Such charges shall be levied whether or not the permit is approved.
- B. Any person holding a permit shall give notice in writing to the Township within ten (10) days after having sold, transferred or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the interest in or control of such mobile home park, and shall be accompanied by a permit transfer fee payable to the Township of ten dollars (\$10.00).
  - C. It shall be incumbent upon the proprietor of a mobile home park to keep a register and to report therein the name of the person or head of family occupying each mobile home, showing date of entry on said land, make and size of the mobile home, and the names of all persons living in said mobile home. Said register shall be submitted to the Township annually with the application for renewal of a mobile home park permit. Said register shall also be available for inspection by the Board of Supervisors upon request.

### **Section 1103. Inspection of Mobile Home Parks.**

- A. The Township or its authorized agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with regulations contained herein and regulations issued hereunder, in order that the duty of safeguarding the health and safety of the occupants of such mobile home park and of the general public, may be performed.
- B. Whenever, upon inspection of any mobile home park, the Township or its authorized agents find that conditions or practices exist which are in violation of any provision contained herein or regulations issued hereunder, the Township shall give notice in writing in accordance with Subsection C., below, to the person to whom the permit was issued, that unless such conditions or practices are corrected within a reasonable period of time, the permit shall be suspended. At the end of such period, the Township shall reinspect the mobile home park and, if such conditions or practices have not been corrected, the permit shall be suspended and notice given in writing of such suspension to the person to whom the permit is issued. Upon receipt of notice of such suspension, such person shall cease operation of such mobile home park.
- C. Whenever the Township determines that there are reasonable grounds to believe that there has been a violation of any provision contained herein or regulations issued hereunder, notice shall be given of such alleged violations to the person to whom the permit was issued as hereafter provided. Such notice shall be as follows:

1. Be in writing;
  2. Include a statement or the reasons for the issuance;
  3. Allow a reasonable time for the performance of any act it requires;
  4. Be served upon the owner or his agent as the case may require, provided that such notice or orders shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by Certified Mail to his last known address, or when he has been served by such notice by any method authorized or required by the laws of this State;
  5. Contain an outline of remedial action which, if taken, will effect compliance with the provisions contained herein and regulations issued hereunder.
- D. Any person affected by any notice which has been issued in connection with the enforcement of the provisions contained herein, or regulation issued hereunder, may request a hearing on the matter before the Board of Supervisors; provided that such person files in the office of the Township Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued upon finding that an emergency exists which requires immediate action to protect the public.

**Section 1104. Mobile Home Parks - Lot Requirements and Mobile Home Standards.**

- A. Individual mobile home lots located in a mobile home park shall contain at least ten thousand (10000) square feet of lot area and shall not be less than sixty (60) feet wide at the building set-back line exclusive of easements or rights-of-way.
- B. All mobile home lots shall be given street numbers and all park streets shall be given names.

- C. Every mobile home shall be provided with a mobile home stand, which provides an adequate foundation for the placement of such mobile home, securing the structure from settling, vibration, uplift and sliding.
1. The mobile home stand shall have a minimum area equal in length and width to the mobile home to be placed on it. Such stand shall be cement concrete with a minimum thickness of four (4) inches, shall have a frost wall around its perimeter, and shall have an adequate sub-base.
  2. All mobile homes shall be securely fastened to the concrete stand (tied down) in a manner recommended by the manufacturer of the mobile home, or the mobile home owner's insurance company, for the purpose of protecting and securing the mobile home from the forces of wind.
  3. Alternatively, the Township may approve a mobile home stand design in accordance with the manufacturer's recommendations or the recommendations of the mobile home owner's insurance company. Either alternative should be presented in written form to the Township for approval at the time of subdivision, land development and/or building permit application.

**Section 1105. Yard and Set-Back Requirements.**

- A. All mobile homes shall be located at least thirty (30) feet from any public street right-of-way which abuts a mobile home park boundary and at least fifty (50) feet from any other boundary of the park.
- B. There shall be a minimum distance of twenty-five (25) feet between an individual mobile home and adjoining pavement of a park street or common parking area or other common areas.
- C. All mobile homes and patios on a mobile home lot shall not be located closer than ten (10) feet to a side lot line, and shall not be located closer than twenty-five (25) feet to a rear lot line that is not a park boundary.

**Section 1106. Mobile Home Park Street System.**

- A. Park Access. Each Mobile Home Park shall be provided with at least two (2) suitable points of ingress and egress and a distance of at least one hundred-fifty (150) feet shall be maintained between centerlines of access streets.
- B. Lot Access. All Mobile Home Parks shall be provided with safe and convenient paved access streets to and from each and every mobile home lot. Alignment and gradient shall be properly adapted to topography.
- C. Streets. All streets within any Mobile Home Park shall be designed and improved as local streets in accordance with Township specifications.
- D. Intersections. Not more than two (2) streets shall intersect at any point and a distance of at least one hundred-fifty (150) feet shall be maintained between centerlines of offset intersection streets.

**Section 1107. Required Off-Street Parking.**

- A. Off-street parking areas shall be provided in all Mobile Home Parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two (2) vehicular parking spaces for each mobile home lot.
- B. Each off-street parking space shall contain at least two hundred (200) square feet being a minimum of ten (10) feet by twenty (20) feet.
- C. Auxiliary Parking Lots.
  - 1. There shall be a minimum of one (1) auxiliary parking space for every two (2) mobile home stands, located within five hundred (500) feet of the mobile homes it is intended to serve.
  - 2. Construction and paving of auxiliary parking lots shall be in accordance with the standards set forth herein for park streets.
  - 3. All parking spaces within the auxiliary parking lot shall be clearly defined.
  - 4. Separate parking lots for the storage of small trailers, boats, RV's, campers, etc. may be provided. However, storage of such vehicles shall not occur in auxiliary parking lots.

**Section 1108. Utility Improvements.**

A. Water Supply.

1. All mobile home parks shall be served by a public water supply, however, where a public supply of water is not available, a private water system may be developed and used as approved by the Pennsylvania Department of Environmental Protection.
2. The water supply shall supply a minimum of one hundred fifty (150) gallons per day per mobile home.
3. Water supply treatment, where applicable, shall be in accordance with the requirements of the Pennsylvania Department of Environmental Protection.
4. All water storage reservoirs shall be covered, so as to prevent the entrance of contaminated material, watertight, and constructed of impervious material. Overflows and vents of such reservoirs shall be effectively screened.
5. The water system of the mobile home park shall be connected by pipes to all mobile homes, buildings and other facilities requiring water, and shall be so designed and maintained as to provide a pressure of not less than forty (40) pounds per square inch, under normal operating conditions.
6. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements, and shall be of a type and in a location approved by the Pennsylvania Department of Environmental Protection.
7. Individual water-riser pipes and connections shall be provided, and shall be located within the confined area of each mobile home stand at a point where the water connection will approximate a vertical position, and shall extend at least four (4) inches above ground elevation. The pipe shall be at least three-fourths (3/4) inches in diameter, and the water outlet shall be capped when a mobile home does not occupy the stand; surface drainage shall be diverted from the location of the riser pipe.

B. Sanitary Sewage Facilities.

1. An adequate and safe sanitary sewage system shall be provided in all parks for conveying and disposing of sanitary sewage from mobile homes, service buildings and other accessory facilities.
  2. All proposed treatment and disposal facilities shall be approved by the Pennsylvania Department of Environmental Protection prior to construction.
  3. Sanitary sewer collection lines shall be completely separate from the water supply system and from any storm drainage system.
  4. Each mobile home shall be provided with a sanitary sewer riser pipe located within the confined area of the mobile home stand, so that the sewer connection to the mobile home drain outlet will approximate a vertical position.
  5. The sanitary sewer riser pipe shall be capped when a mobile home does not occupy a stand. The rims of the riser pipe shall extend a minimum of four (4) inches above ground elevation, and surface drainage shall be diverted away from the riser pipe.
- C. Electrical Distribution. All Mobile Home Parks shall have underground electrical distribution systems which shall be installed and maintained in accordance with the local electric power company's specifications regulating such systems.
- D. Natural Gas Systems. Any natural gas system shall be installed and maintained in accordance with the regulations and specifications of the company supplying said natural gas.
- E. Liquified Petroleum Gas System. Liquified petroleum gas systems provided for mobile homes, service buildings or other structures shall include the following:
1. Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
  2. Systems shall have at least one (1) accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in effective operating condition.
  3. All LPG piping outside of the mobile homes shall be well supported

and protected against mechanical injury. Undiluted liquified petroleum gas, liquid form, shall not be conveyed through piping equipment and systems in mobile homes.

4. Any vessel containing liquified petroleum gas shall be securely but not permanently fastened to prevent accidental overturning. Vessels with a capacity greater than one hundred (100) gallons must be placed ten feet or more from any building. Vessels with a capacity greater than five hundred (500) gallons are prohibited, and no mobile home shall have a total capacity greater than 500 gallons.
5. No LPG vessel shall be stored or located inside or beneath any storage cabinet, carport, mobile home or any other structure unless such installations are specifically approved by the Township.

F. Fuel Oil Supply System.

1. All fuel oil supply systems provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with accepted engineering practices and standards of the supplying or installing company.
2. Fuel storage tanks may be located below the ground surface, as long as they are installed in accordance with Department of Environmental Protection and other applicable regulations.
3. Fuel storage tanks may be located above the ground surface, provided they are placed on a concrete pad and affixed in such a way as to prevent tipping.
4. All piping from outside fuel storage tanks shall be located below the surface of the ground and a riser pipe shall be provided, located within the confined area of the mobile home stand.
5. All fuel oil supply systems shall have shut-off valves located within five (5) inches from the mobile home stand surface.
6. All fuel storage tanks shall be located a minimum distance of ten (10) feet from all electrical service lines.
7. Fuel storage tanks shall not be located under mobile homes.

**Section 1109. Usable Open Space.**

- A. All Mobile Home Parks shall provide not less than ten percent (10%) of the total land area for usable open space purposes. Usable open space shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located and easily accessible to all park residents. Mobile home parks containing more than thirty (30) lots or dwelling units shall provide playgrounds, with facilities which are appropriate to the scale and character of the mobile home park, considering its natural features, size, land use intensity, and potential population.
- B. Exposed ground surfaces in all parts of every park shall be paved, or covered with stone screenings, and other solid material, or protected with a vegetation that is capable of preventing soil erosion and the emanation of dust during dry weather.
- C. Park grounds shall be maintained free of vegetation which is poisonous or which may harbor rodents, insects, or other pests harmful to man.

**Section 1110. Walkways.**

- A. General Requirements. All parks shall be provided with safe, convenient, all season pedestrian walks, accessible to the handicapped, of adequate width for intended use, durable and convenient to maintain, between individual mobile home lots, the park streets and all community facilities provided for park residents. Sudden change in alignment and gradient shall be avoided.
- B. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a width of four (4) feet, and shall be constructed of cement concrete in accordance with PennDOT Form 408 specifications.
- C. Individual Walks. All mobile home lots shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street, with individual walks. Such individual walks shall have a minimum width of two (2) feet, and may be constructed of concrete, brick, flagstone or other suitable material.

**Section 1111. Other Site Improvements.**

- A. An emergency alarm communication system acceptable to the local fire

company shall be provided.

- B. Each mobile home lot may be provided with a concrete slab for use as a patio or for a foundation for any expansion of the mobile home. If provided, the concrete slab shall be constructed on a stable surface and be located so as to adjoin and be parallel to the mobile home. It shall not be larger than three hundred (300) square feet in area.
- C. The primary entrance to each mobile home shall be provided with an entrance landing, the height of which shall not be less than six (6) inches below the threshold of the door opening. Such landing shall extend at least four (4) feet outward from the mobile home. Any such landing over twelve (12) inches in height above the ground shall be provided with steps. Any such landing over eighteen (18) inches in height shall also be provided with a railing on all open sides not containing steps as well as a step handrail. Landings must be of permanent construction, and may be made of wood, masonry or metal.
- D. Individual tenants at the mobile home park may construct attached enclosures or covered patios to individual mobile homes, provided that such enclosure does not exceed the slab area noted in 1111 B. and is confined to same.
- E. An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.
- F. All means of ingress, egress, walkways, streets and parking lots shall be adequately lighted to ensure the visibility and safety of residents.
- G. A fence, wall, hedge or vegetative material at least five feet in height and of a density to conceal the park from adjacent properties shall be provided and maintained along all lot lines of the park.

#### **Section 1112. General Regulations.**

- A. Grounds, buildings and structures shall be maintained free of noxious weeds,

insects and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the Pennsylvania Department of Environmental Protection regulations governing mobile home parks.

- B. The person to whom a license for a mobile home park is issued shall operate the park in compliance with the regulations contained herein and shall provide supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition. Maintenance of the streets and snow removed shall be the responsibility of owner/operator of the mobile home park.
- C. The responsible operator of the mobile home park shall supervise the placement of each mobile home on the mobile home stand which includes securing its stability and installing all utility connections.
- D. No part of any mobile home park shall be used for a non- residential purpose except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.
- E. Fire-resistant skirting shall be provided, the entire perimeter of the mobile home, for the purpose of concealing the wheel assembly and piping, and it shall be installed by the individual mobile home owner within sixty (60) days after emplacement of the mobile home.
- F. Storage, collection and disposal of waste shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. Provisions shall be made by the park operator to have garbage and waste collected at least once every week.
- F. No provision contained herein shall be deemed as prohibiting the sale or rental, for residential use, of a mobile home, provided such mobile home is located on a mobile home stand and is connected to the pertinent utilities.

### **Section 1113. Mobile Homes Not Located In A Mobile Home Park.**

- A. Any mobile home not located in a mobile home park shall comply, in all respects, with the requirements of the Township for obtaining building

permits as a single-family detached dwelling unit, and also shall comply with all applicable requirements of the North Newton Township Subdivision and Land Development Ordinance, including the following:

1. Each mobile home shall be anchored so as to secure the structure from settling, vibrations, uplift, sliding, and frost.
2. The anchoring method to be used shall be presented in written form to the Township at the time of subdivision, land development and/or building permit application.
3. The primary entrance to each mobile home shall be provided with an entrance landing, the height of which shall not be less than six (6) inches below the threshold of the door opening. Such landing shall extend at least four (4) feet outward from the mobile home. Any such landing over twelve (12) inches in height shall be provided with steps. Any such landing over eighteen (18) inches in height shall also be provided with a railing on all open sides not containing steps as well as a step handrail. Landings must be of permanent construction, and may be made of wood, masonry or metal.
4. Riser Pipes. Sanitary sewer and water riser pipes shall be provided and shall be located within the confine area of the mobile home stand at a point where the water and sewer connections will approximate a vertical position, and shall extend a minimum of four (4) inches above the stand surface. Both riser pipes shall be capped when a mobile home does not occupy the stand. Surface drainage shall be diverted from the location of the riser pipes.
5. Fuel Storage Tanks. Fuel storage tanks and piping may be located below the surface of the ground providing installation is in accordance with Department of Environmental Protection regulations. Fuel tanks located above ground shall be placed on a concrete pad and affixed so as to prevent tipping. A riser pipe shall be provided, located within the confined area of the mobile home stand. All supply systems shall have shut-off valves located within five (5) inches from the mobile home stand surface.
6. Skirting. A fire-resistant skirting shall be provided the entire perimeter of the base of the mobile home, for the purpose of concealing the wheel assembly and piping, which skirting shall provide sufficient

ventilation to inhibit decay and deterioration of the structure. Such skirting shall be installed by the mobile home owner within sixty (60) days after placement of the mobile home.

**ARTICLE 12  
FLOODPLAIN AREA REGULATIONS**

**Section 1201. Refer to North Newton Township Building Permit/Floodplain Ordinance adopted March 3, 2009, as updated or amended.**

## ARTICLE 13

### TELECOMMUNICATION ANTENNAS AND TOWERS

#### Section 1301. Purpose

In recognition of the quasi-public nature of telecommunication service facilities, the purpose of this Article is as follows:

- A. To accommodate the need for telecommunication antennas while minimizing the number of sites within North Newton Township.
- B. To minimize adverse visual impact and effects of telecommunication antennas and antenna support structures through proper design, siting and vegetative screening.
- C. To avoid potential damage to adjacent properties from antenna support structure failure and falling ice or debris, through engineering and proper siting of antenna support structures.
- D. To strongly encourage the joint use of new and existing antenna support structures as a primary option, rather than construction of additional single-use towers, in an effort to reduce the number of such structures needed in the future.
- E. To ensure that the location and number of telecommunication facilities are in the best interests of the health, safety, welfare, and morals of the residents of North Newton Township.

#### Section 1302. Definitions

The following words and phrases when used in this Ordinance shall have the meaning given to them in this Section unless the content clearly indicates otherwise:

Alternative Tower Structure – man-made trees, clock towers, tall steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas on towers.

Antenna – Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas (such as panels) and omnidirectional antennas (such as whips) but not including satellite earth stations.

Antenna Support Structure – Any pole, telescoping mast, tower, tripod, or any other

structure which supports a device used in the transmitting or receiving of radio frequency energy for telecommunications purposes.

Applicant – The owner of the property being developed, or subdivided to create a fee simple or lease lot, to be used as a telecommunications site.

Height – The vertical distance measured from the base of the tower or antenna at the ground or the elevation of attachment to a structure or building, to its highest point. If the tower or the antenna is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Monopole – An antenna support structure consisting of a single pole or spire constructed without guy wires or ground anchor.

Operator – The party responsible for the operation and maintenance of the telecommunications site.

Owner – The owner or leasee of the property on which the telecommunications site will be constructed.

Telecommunications Site – A tract or parcel of land that contains a telecommunications antenna or tower, its support structure, accessory building(s), parking and may include other uses and equipment associated with and ancillary to telecommunications signal transmission or processing.

Tower – A structure that is intended to support equipment used to transmit and/or receive telecommunications or radio signals, including monopoles and lattice type construction steel structures.

### **Section 1303. General Requirements**

#### **A. Antennas**

1. Any Applicant proposing Communications Antennas to be mounted on a Building or other structure, including existing towers, shall submit evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
2. Any Applicant proposing Communications Antennas to be mounted

on a Building or other Structure, excluding existing towers, shall submit evidence of agreements and/or easements necessary to provide access to the Building or Structure on which the antennas are to be mounted, so that installation and maintenance of the Building or Structure, the antenna(s), and communications equipment building can be accomplished.

3. The Owner or Operator of Communications Antennas shall be licensed by the Federal Communications Commission to operate a Communications Tower if applicable, and Communications Antennas.
4. Communications Antennas shall not cause radio frequency interference with other communications facilities located in North Newton Township.

B. Towers

1. Communications Towers shall comply with all applicable Federal Aviation Administration, and Commonwealth Bureau of Aviation Regulations.
2. The Applicant shall demonstrate that the proposed Communications Tower and Communications Antennas proposed to be mounted thereon comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
3. A complete Subdivision and/or Land Development Plan shall be required for all proposed telecommunications sites. The Plan must show the site boundaries and building setback areas as well as the tower/antenna, buildings, fencing, access roads with easements as may apply, required landscaping and all other requirements of North Newton Township Subdivision and Land Development Ordinance.
4. Recording of a plat of subdivision or land development shall be required for any fee simple or lease parcel on which a Communications Tower is proposed to be constructed.
5. Any Applicant proposing construction of a new Communications Tower shall demonstrate that a good faith effort has been made to

obtain permission to mount the Communications Antennas on an existing Building, Structure or Communications Tower. A good faith effort shall require an affidavit listing the name, address, telephone number and date when the owners of potentially Suitable Structures within a half (1/2) mile radius of the proposed Communications Tower were contacted, asking permission to attach antenna(s) to their structures or buildings. "Suitable Structures" shall include but not be limited to smokestacks, silos, water towers, buildings over thirty-five (35) feet in height, support structures of other telecommunications companies, and other communications towers (fire, police, etc.). The affidavit shall include copies of the requests and responses which indicate that one (1) or more of the following reasons for not selecting such Structure apply:

- a) The proposed antennas and related equipment would exceed the structural capacity of the existing Structure and its reinforcement cannot be accomplished at a reasonable cost.
- b) The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing Structure and the interference cannot be prevented at a reasonable cost.
- c) Such existing Structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
- d) Addition of the proposed antenna and related equipment would result in electromagnetic radiation from such Structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation.
- e) A commercially reasonable agreement could not be reached with the Owners of such Structures.
- f) That technological evidence establishes the

Communications Tower/Antenna must go where it is proposed in order to satisfy its function in the grid system and the providing of the quality of service required by law.

The Township may request a review of the application and affidavit by a qualified Engineer for evaluation of need for and design of any new tower. The cost for such review shall be borne by Applicant.

6. The following sites shall be considered by Applicants as the preferred order to location of communications antennas and assorted equipment. As determined feasible, and in order of preference, the sites are:
  - a) Existing communication towers, smoke stacks, silos, water towers, or any other tall structure.
  - b) Publicly owned structures.
7. The Applicant shall submit certification from a Pennsylvania Registered Professional Engineer that a proposed Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of the Pennsylvania and North Newton Township Building Code.
8. The Applicant and/or Owner shall accept full responsibility for any legal action that arises from damage to private and/or public property during the construction, use, and maintenance of the telecommunication site, and shall indemnify, defend and hold the Township harmless from said legal action.
9. No building permit shall be issued until the Owner or Operator provides the Township with a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence, and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower and Communications Antennas.
10. No building permit shall be issued until the Owner of the

Communications Tower, antenna or any associated facilities provides a deposit with the Township of financial security, in an amount sufficient to cover the cost to dismantle and remove the Communications Tower, antenna, or any associated facilities, including structures and buildings within six (6) months of the date upon which the communications tower or facilities remain unused for a period of twelve (12) consecutive months. The party providing the financial security shall be the Owner or Operator. 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 and acceptable to the Township Supervisors, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth. If ownership of the facilities is transferred, the financial security must remain in place until the new Owner provides financial security in an amount equal to or greater than the current security. The amount of financial security shall be based upon an estimate of the cost to dismantle and remove the structure(s), and be submitted by the Applicant or Owner or Operator and prepared by a Professional Engineer licensed as such in the Commonwealth and certified by such Engineer to be a fair and reasonable estimate of such costs. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown.

11. On an annual basis, the Owner or Operator shall submit (1) a copy of its current Federal Communications Commission license; (2) the name, address and emergency telephone number for the Operator of the Communications Tower; (3) a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence, and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Communications Tower and Communications Antennas; (4) a notarized statement containing language approved by the Township Solicitor which shall indemnify and save harmless North Newton Township, Cumberland County, Pennsylvania from any and all litigation which may arise from the construction, operation, maintenance and demolition of any tower, antenna, or other structure on the telecommunications site. This statement must be signed by the Owner of the tower/antenna and the Owner of the property upon which the telecommunications facility is located, if the property is owned by an entity other than the

telecommunications entity.

12. Every twenty-four (24) months after the tower/antenna is put into operation, the Owner or Operator shall have an on-site inspection conducted. The inspection and inspection report shall be conducted, prepared, signed and sealed by a Professional Engineer, registered in the Commonwealth of Pennsylvania, and who is competent in structural design and inspection of towers/antennas. The written report shall be submitted to the Township for review, and shall detail inspections of the tower and antenna, the tower/antenna foundation, any attachments to the tower/antenna, guy wires and anchors (if any), buildings on the site, the perimeter fencing and the general condition of the site with respect to safety. This inspection report should be accompanied by a check in the amount of \$50.00 made payable to "North Newton Township" to offset the Township's cost to review the inspection report.
13. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the Owner or Operator shall continue to provide the Township with up to date information regarding the items listed in paragraph 11 (above) and maintain the required general liability and property damage insurances, or dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period.
14. The Applicant must examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for reception and transmitting facilities. The scope of this analysis shall be determined by the Township. This requirement may be waived, provided that the Applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
  - a) The number of Federal Communications Commission (FCC) licenses foreseeable for the area.  
The type of tower site and structure proposed.
  - b) The number of existing and potential licenses without tower spaces.
  - c) Available spaces on existing and approved towers.
  - d) Potential adverse visual impact by a tower designed for shared use.

15. The Applicant shall undertake a visual impact assessment of any proposed new towers, any proposed modifications to existing towers, or any antenna placements. The assessment shall include:
  - a) A demonstration that the antenna or tower is the minimum height required to function satisfactorily.
  - b) A “zone of visibility map” provided to determine locations where the tower or antenna may be seen.
  - c) Pictorial representations of “before and after” views from key viewpoints within the Township limits.
  - d) Assessment of the visual impact of the tower base, accessory buildings, and overhead utility lines from abutting properties and streets.
  - e) Assessment of alternative tower or antenna designs and color schemes.
16. The Applicant shall provide written notice of the proposed tower development to neighboring property owners within five hundred (500) feet of the property on which the tower is to be constructed.

#### **Section 1304. Tower Site Design Requirements**

The design and layout of a proposed tower site shall comply with the following:

- A. Any applicable state or federal regulations.
- B. Unless specifically required by state or federal regulations, all towers shall have a finish that shall minimize, to the greatest extent possible, the degree of visual impact.
- C. Accessory buildings shall maximize the use of building materials, colors and textures in order to blend with the natural surroundings.
- D. No portion of any tower or related structure shall be used for a sign or other advertising purpose, including, but not limited to company name, phone numbers, banners, streamers, etc.

- E. All plans, specifications and reports for the design of new towers must be signed and sealed by a Professional Engineer, registered in the Commonwealth of Pennsylvania, having expertise in the design of telecommunications sites and facilities.
- F. All guy wires and guy wire anchors associated with guyed Communications Towers shall be clearly marked so as to be visible at all times. The guy wires shall not encroach on the front, rear, or side yard setback areas, and shall be located within a fenced enclosure.
- G. No lights shall be mounted on a Communications Tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency which has jurisdiction.
- H. Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
- I. The site of a Communications Tower shall be secured by a chain link fence with a minimum height of eight (8) feet to limit accessibility by the general public. The fencing shall not contain openings greater than nine (9) square inches and shall include entrance gates which shall be locked, except during such times as the site is manned by authorized operations or maintenance personnel. No fencing shall be required for an antenna mounted on a pre-existing structure. A 24 inch x 24 inch sign shall be attached to the gate at the entrance to the telecommunications site and shall include the following information:
  - a) Name of Owner and Operator.
  - b) Daytime and emergency telephone number of Owner and Operator.
  - c) Name of contact person in the event of an emergency.

- J. When the fencing around a newly constructed telecommunications site is within 1,000 feet of a residential dwelling, an evergreen screen shall be planted along the fence line that faces the dwelling. The screening shall be planted in the area between the fence and the property/lease boundary of the telecommunications site. The evergreen screen shall be created by planting trees (a minimum of six (6) feet tall at planting that will grow to a minimum of fifteen (15) feet tall at maturity) on ten (10) foot centers maximum. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

**Section 1305. Amateur Radio**

This Ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio status Operator.

## ARTICLE 14

### IMPROVEMENT STANDARDS

#### **Section 1400. Construction of Improvements.**

The subdivider or developer shall grade and pave the streets and install all other necessary improvements at no expense to the Township, including, where required, curbs, sidewalks, water and sanitary sewer lines, erosion and sedimentation control facilities, stormwater management facilities, street lights, fire hydrants, street name signs, and other facilities and utilities required by the Board, in strict accordance with the requirements of this Article and the standards and specifications of the Township. Construction and inspection of all such facilities and utilities shall be subject to inspection by appropriate Township officials during the progress of the work. The subdivider or developer shall not begin work on structures in any part of the subdivision or land development until the streets in that part have been graded to within four (4) inches of the finished grade.

#### **Section 1401. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plan Approval.**

- A. No plan shall be finally approved unless the streets shown on such plan have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the Subdivision and Land Development Ordinance and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains and other improvements as required by this ordinance have been installed in accordance with this ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plan, including improvements or fees required of any land development which is not immediate, the developer shall provide for the deposit with the Township of financial security in an amount sufficient to cover the costs of any improvements or common amenities including, but not limited to, roads, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.
- B. When requested by the developer, in order to facilitate financing, the Board of Supervisors or the Planning Commission, if designated, shall furnish the developer with a signed copy of a resolution indicating approval of the final plan contingent upon the developer obtaining a satisfactory financial security.

The final 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 Board of Supervisors; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

- C. Without limitation as to other types of financial security which the Township may approve; which approval shall not be unreasonably withheld; Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, shall be deemed acceptable financial security for the purposes of this section.
- D. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.
- E. Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- F. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.
- G. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost.

The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the Township and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the applicant or developer.

- H. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional ten percent (10%) for each one-year period beyond the first anniversary date from posting of financial security; or to an amount not exceeding one hundred-ten percent (110%) of the cost of completing the required improvements as re-established on or about the expiration of the preceding one-year period by using the above bidding procedure.
- I. In the case where development is projected over a period of years, the governing body may authorize submission of final plans by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.
- J. As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body 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 governing body, and the governing body shall have forty-five (45) days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the governing body, that such portion of the work upon the improvements has been completed in accordance with the approved plan. Upon receipt of such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed, or if the governing body fails to act within said forty-five (45) day period, the governing body shall be deemed to have approved the release of

funds as requested.

The governing body may, prior to final release at the time of completion and certification by its engineer, require retention of ten percent (10%) of the estimated cost of the aforesaid improvements.

- K. Where the governing body accepts dedication of all or some of the improvements following completion, the governing body 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 plan 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 percent (15%) of the actual cost of installation of said improvements.

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

- M. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plan as set forth in this section, the Township shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plan upon actual completion of the improvements depicted upon the approved final plan. 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 plan, 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.

## **Section 1402. Release From Improvement Bond.**

When the developer has completed all of the required improvements, the developer shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer.

- A. The Board of Supervisors shall, within ten (10) days after receipt of such notice, direct and authorize the Engineer and Municipal Authority representatives to inspect all of the required improvements.
- B. The Township Engineer shall, thereupon, file a report, in writing, with the Board of Supervisors, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Township Engineer of the authorization for inspection by the Board of Supervisors.
- C. The report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reason for non-approval or rejection.
- D. The Board of Supervisors shall notify the developer, within fifteen (15) days of receipt of the Engineer's report, in writing, by certified mail or registered mail, of the action of the Board with relation thereto.
- E. If the Board of Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released of all liability, pursuant to its performance guaranty bond.
- F. If any portion of the said improvements shall not be approved or shall be rejected by the Board of Supervisors, the developer shall proceed to complete the same, and upon completion, the same procedure of notification as listed above shall be followed.

- G. The Township may prescribe that the applicant shall reimburse the Township for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the Engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.
1. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within ten (10) working days of the date of billing, notify the Township that such expenses are disputed as unreasonable or unnecessary, in which case the Township shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.
  2. If, within twenty (20) days from the date of billing, the Township and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and Township shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.
  3. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within fifty (50) days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.
  4. In the event that the Township and applicant cannot agree 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

Cumberland County (or, if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding five years.

5. The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000.00 or more, the Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay one-half of the fee of the appointed professional engineer.

#### **Section 1403. Remedies to Effect Completion of Improvements.**

In the event that any improvements which may be required have not been installed as provided in this ordinance or in accordance with the approved Final Plan, the Board shall have the power to enforce any corporate bond or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security the Board of Supervisors 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 Township purpose.

#### **Section 1404. Dedication of Improvements.**

With any offer of dedication of municipal improvements, the subdivider or developer shall furnish the Township or appropriate Authority having jurisdiction a Deed of Easement and/or Dedication in accordance with the standards of the Township or Authority.

## ARTICLE 15

### MODIFICATION OF REQUIREMENTS

#### Section 1500. Peculiar Conditions.

- A. The Board of Supervisors may grant a modification of the requirements of one or more provisions of this ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.
- B. The general principles of design and the minimum requirements for the laying out of subdivisions and land developments stipulated in this ordinance may be varied by the Board of Supervisors upon request by the subdivider or developer and the recommendation of the Township Engineer and the Planning Commission, in the case of a project large enough to constitute a more or less self-contained neighborhood, industrial park or commercial center. Such a project shall be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, which in the judgement of the Board has made adequate provisions for all essential requirements. Provided, however, that no modification shall be granted by the Board which would conflict with features of any adopted long-range plan of the Township or with the intent and purpose of the general principles of design and minimum requirements of this ordinance.

#### Section 1501. Requests for Modification.

- A. All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved and the minimum modification necessary.
- B. The request for modification may be referred to the Planning Commission and Township Engineer for advisory comments. The Board of Supervisors and the Planning Commission shall keep a written record of all action on all requests for modifications. All modifications approved by the Supervisors shall be appropriately listed with the date of such approval on the Final Plan.

## **Section 1502. Review of Requests for Modification**

Upon reviewing a request of modification, the Township shall consider the following:

- A. That there is good and sufficient cause;
- B. That failure to grant the modification would result in excessive hardship to the applicant;
- C. That the granting of the modification will neither result in an unacceptable or prohibited increase in flood height, additional threat to public safety, or extraordinary public expense; nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations;
- D. Any other pertinent information provided as part of the record prior to or at the time of review by any interested party.

## **Section 1503. Appeals**

Appeals of any action or decision of the Township Secretary or any other officer or employee of the Township authorized to administer this ordinance shall be filed in writing with the Township within thirty (30) days after the action or decision in question. Upon receipt of the appeal, the Board of Supervisors shall designate a time and place for consideration of the appeal. This time will be set not less than ten (10) days nor more than thirty (30) days after receipt. Notice of the time and place shall be given to all interested parties. Should the decision of the Board of Supervisors aggrieve any person, they may seek relief by appeal to court, as provided by the laws of this Commonwealth including the Pennsylvania Flood Plain Management Act.

## ARTICLE 16

### ENFORCEMENT AND REMEDIES

#### Section 1600. Enforcement.

The Township is hereby authorized and directed to enforce all of the provisions of this ordinance. Upon presentation of proper credentials, duly authorized representatives of the Township may enter at reasonable times upon any property within the Township to investigate or ascertain the condition of the subject property in regard to any aspect regulated by this ordinance.

#### Section 1601. Enforcement Remedies.

- A. Any person, partnership, or corporation who or which has violated the provisions of the North Newton Township Subdivision Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by North Newton Township, pay a judgement of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgement 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 judgement, the municipality may enforce the judgement pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgement pending a final adjudication of the violation and judgement.
- C. Nothing contained in this section shall be construed or interpreted to grant any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

## **Section 1602. Preventive Remedies.**

- A. In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
  
- B. North Newton Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of the Township subdivision ordinance. This authority to deny such a permit or approval shall apply to any of the following applicants:
  - 1. The owner of record at the time of such violation.
  - 2. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
  - 3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - 4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

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

## **ARTICLE 17**

**EFFECTIVE DATE: ENACTMENT**

This ordinance shall take effect upon its enactment as provided by law.

Enacted and ordained this 1st day of September, 2009.

The enactment of this ordinance hereby repeals any other ordinance or part thereof in conflict with this ordinance.

**NORTH NEWTON TOWNSHIP**

Chairman, Board of Supervisors

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Supervisor

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Supervisor

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Attest \_\_\_\_\_