

# *article III*

# *Subdivision Application/Review Procedures*

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## *SECTION 300 GENERAL*

- A. It is the intention of the Borough Council in enacting the regulations of this Ordinance to provide the applicant with a timely and comprehensive review of the plans submitted for subdivision and/or land development. To this end, the following classifications of plans are established as hereinafter provided:
1. Sketch plans.
  2. Preliminary plans.
  3. Final plans.
- B. Where literal application of plan processing procedures established by this Ordinance would create undue hardship or be plainly unreasonable in their opinion, the Planning Commission may recommend in writing to the Borough Council such reasonable exceptions as will not be contrary to the public interest, subject to Section 800, Modifications.

## *SECTION 301 PLAN CLASSIFICATION*

- A. All subdivision applications shall be for the purposes of procedure classified as either minor or major. Applicants shall apply for and secure approval in accordance with the following procedures:
1. Minor subdivision proposal

A subdivision plan may be classified as a minor subdivision where the following circumstances apply:

    - a. No street, either public or private, or any improvement intended to be dedicated to the Borough is to be constructed;
    - b. No land disturbance activities will take place except those incidental to construction of a single family dwelling on a single lot;
    - c. No more than two (2) lots are proposed;
    - d. No further subdivision can occur within the resulting lots; or

e. Where the purpose of the plan is to provide a lot line adjustment and no development is proposed.

2. Major subdivision or land development proposal

All subdivision plans not classified as minor subdivision plans, as defined above, with the exception of constructing one (1) single family residence on a single lot. All land development proposals shall be processed under this category.

3. In the case where subdivision or land development plans do not propose the development of the entire parcel, the Planning Commission may require the submission of an informal concept plan indicating how the entire tract will be developed.

B. Landowners submitting an application for subdivision or land development shall apply for and secure approval in accordance with the following procedures:

1. Minor Subdivision or Land Development Proposal

a. Sketch Plan (optional);

b. Final Plan (required).

2. Major Subdivision or Land Development Proposal

a. Sketch Plan (optional, but recommended);

b. Preliminary Plan (required);

c. Final Plan (required).

C. Preliminary and final subdivision or land development plan submittals shall be made to the Borough Administrator, who will make the appropriate distributions for review. All plans shall be submitted with the necessary application forms and fees as determined by the Borough Council by resolution.

***SECTION 302 SUBMISSION OF PLAN AND STATUTORY REVIEW PERIOD***

A. Ninety (90) Day Statutory Time Period.

All applications for approval of a plan, whether preliminary or final, shall be acted upon by the Borough Council within such time limits as prescribed herein. The Borough Council shall render its decision and communicate it to the applicant not later than ninety (90) days following the official date of submission.

B. Extension Of The Statutory Review Period

The statutory review period for the disposition of preliminary or final plans may be extended for any reason if an agreement in writing to such an extension is received from the applicant, and agreed to by the Borough Council within the first sixty (60) days, following the official date of submission.

C. Official Submission Date.

1. All plans and all application forms, fees, and other required materials shall be submitted to the Borough Administrator for processing. The official submission date shall be the next regularly scheduled Planning Commission meeting following receipt of the plan submission, provided that such meeting occurs within thirty (30) days following the filing of the application. Otherwise, the official submission date shall be thirty (30) days following the filing of the application.

2. The Borough Administrator shall note the date of the receipt of the complete submission of the application, plans, fees, and escrow deposits. The application shall not be deemed to be submitted until a complete application and required fees and supporting information have been submitted.

D. Official Application.

No submittal for subdivision or land development shall be considered official without the following:

1. Completed application form as provided by the Borough;
2. The appropriate number of plan copies and as specified in either Section 306 or 308, below;
3. The appropriate filing and escrow fees as established in Section 802, Fees and Costs.

**SECTION 303 SUBMISSION TO CHESTER COUNTY AND OTHER AGENCIES**

Plans shall be submitted by the Borough to the following agencies for review:

A. Chester County Planning Commission

The applicant shall supply one (1) copy of all sketch, preliminary, and final plans; referral letters; and all appropriate fees (when required) to the Chester County Planning Commission for their review and comment. The following plans shall be reviewed by the County Planning Commission:

1. The sketch plan, when utilized, shall be reviewed for any subdivision or land development.

2. Preliminary Plan Submission.
  - a. The preliminary plan shall be reviewed for major subdivision and land development submission.
  - b. No action shall be taken by the Borough Council with respect to a preliminary plan until it has received and considered the recommendations and comments of the County Planning Commission. In the event that these recommendations are not forthcoming within thirty (30) days of the plan's receipt by the County, the Borough Council may act without having considered the review. The appropriate referral form shall accompany all plan submittals to the County Planning Commission.
3. Final Plan Submission.
  - a. The final plan shall be reviewed for minor subdivision submission.
  - b. Where the County Planning Commission was not afforded the opportunity to review a preliminary plan (in the case of minor subdivisions), or substantive changes have occurred to the plan since the preliminary plan submittal (in the case of major subdivisions and land developments), the County Planning Commission shall be required to review the final plan. Such review shall take no more than thirty (30) days following the submittal to the County. No action shall be taken by Borough Council until the County review has been received. In the event that the County takes more than its allotted thirty (30) days to review the plan, then Council may act on its own.
  - c. At the discretion of the Borough Council, and if the final plan departs substantially from the preliminary plan, the final plan shall be reviewed by the Chester County Planning Commission for major subdivisions and land development submittals.

B. Chester County Health Department.

Where on-site sewer and water is proposed, two (2) additional prints shall be submitted to the Chester County Health Department for review of matters relating to adequacy of the site to sustain on-site water and/or sewage disposal system. One (1) additional print of the final plan shall be submitted to Chester County Health Department.

1. The plan and all applicable documentation shall be submitted at the preliminary plan stage for all major subdivisions and land developments.
2. The plan and all applicable documentation shall be submitted at the final plan stage for all minor subdivisions.

- C. Chester County Conservation District.

One (1) additional copy of the preliminary plan and final plan shall be provided for submission to the Chester County Conservation District, when required by DEP regulations or at the discretion of the Borough Engineer or the Planning Commission, for review of matters relating to drainage and abatement of soil erosion.

- D. Other agencies.

The applicant shall submit such additional prints of all plans as may be required or desired by the Planning Commission or the Borough Council for review by other County, State, Federal, or other reviewing or regulatory agency including, but not limited to, Pennsylvania Department of Transportation (PennDOT) and the Pennsylvania Department of Environmental Protection (DEP).

### ***SECTION 304 SKETCH PLAN SUBMISSION***

- A. A sketch plan is encouraged for all proposed subdivisions or development of land located within the Borough. The applicant may submit a sketch plan to the Planning Commission for review prior to submission of a formal application. The sketch plan procedures are enacted to afford the applicant the opportunity to submit information for review and informal discussion with the Borough and various County agencies before engaging in the detailed engineering design required for the preparation of preliminary or final plans.
- B. Submission of a sketch plan shall not constitute formal filing of a plan with the Borough Council. As such, this procedure is voluntary and not subject to the time limitations imposed by the Code on consideration of formal preliminary and final plans hereinafter provided.
- C. Copies of sketch plans for subdivision or land development shall be supplied to the Borough Administrator for the following distribution:
  - a. One (1) copy to the Planning Commission.
  - b. The appropriate number of copies to the agencies listed in Section 303, Submission to Chester County and Other Agencies.

**SECTION 305 SKETCH PLAN REVIEW**

- A. The sketch plan shall be discussed at a regularly scheduled Planning Commission meeting at which time the applicant's attendance, or his representing agent, is encouraged to consider the suitability of the sketch plan for the development of the land and its relationship to the harmonious extension of streets and utilities, arrangement and density of housing, compatibility of the plan with the Spring City Comprehensive Plan, and consistency with the Borough Zoning Ordinance. A full discussion of the submittal process shall take place at that time so a clear understanding of the procedure exists on behalf of the applicant.
  
- B. As far as may be practical on the basis of a sketch plan, after receipt of written comments of the Planning Commission and other reviewing agency, the Borough Council may:
  - 1. Consider the sketch plan and the written or other comments of the Planning Commission;
  - 2. Meet with the applicant; and
  - 3. Advise the applicant as promptly as possible of the extent to which the proposed subdivision or land development conforms to the requirements of existing ordinances and will discuss possible plan modifications necessary to secure conformance.

**SECTION 306 PRELIMINARY PLAN SUBMISSION**

- A. Complete Submission.
  - 1. Preliminary plans and necessary application forms and fees shall be submitted to the Borough Administrator who shall forward copies to the following agencies:
    - a. Five (5) copies to the Borough Planning Commission.
    - b. One (1) copy to the Borough Engineer or representative.
    - c. One (1) copy to the Borough Zoning Officer.
    - d. One (1) copy to the Borough Solicitor.
    - e. One (1) copy to the Borough Administrator (office copy).
    - f. Appropriate number of copies to those agencies listed in Section 303, Submission to Chester County and Other Agencies,

2. Other items for submission
  - a. Official Borough application forms.
  - b. Required filing fees and escrow deposits, as determined by resolution of the Borough Council as set forth in Section 802, Fees and Costs, of this Ordinance.
  - c. Accompanying reports, documentation, and other required materials.

### **SECTION 307 PRELIMINARY PLAN REVIEW**

Preliminary plan review shall only be required for major subdivisions and land developments.

#### **A. Review by Borough Agencies.**

##### **1. Review by the Borough Engineer**

The Borough Engineer shall review the preliminary plan to certify that the required information and content required by this Ordinance is presented in the submitted plans and that the information on the submitted plans does not contain any errors. Furthermore, the review by the Borough Engineer shall include an investigation of the plan to be certain that all other Borough Ordinances are complied with and an examination of the engineering feasibility of the various schemes presented for the location, alignment and grade of streets, stormwater drainage, sanitary sewers and water supply. The Borough Engineer shall confer with the applicant to the extent necessary to obtain conformity of the plan with these regulations and to comment upon the matter subject to his review. He shall forward his written comments on the plan to the Planning Commission within twenty (20) days.

##### **2. Review by the Borough Planning Commission.**

The Borough Planning Commission shall review the preliminary plans at the first regular meeting of the Commission following submittal of the plans to the Borough as outlined in Section 302, Submission of Plan and Statutory Review Period. The Planning Commission, following completion of its review (which shall not exceed fifty-nine (59) days) shall promptly send a written statement of its review and findings to the Borough Council and the applicant within five (5) days, preferably prior to the next regularly scheduled Borough Council meeting. All comments made by the Borough Engineer or representing agent shall be incorporated with those of the Planning Commission in its submittal and all applicable comments from any reviewing agency (County Planning Commission, Health Department, Conservation District, etc.) to the Borough Council.

3. Review by the Borough Council.

The Borough Council shall review the preliminary plan at its next regularly scheduled meeting following the submittal of the recommendations of the Borough Planning Commission, or at some other meeting or meetings of the Borough Council, prior to the end of the statutory review period. At that time, the Council shall take one of two courses of action:

- a. It shall approve the preliminary plan; or
- b. It shall reject the plan.

B. Course of Action.

1. Approval of Preliminary Plan.

The applicant has twelve (12) months after the approval of the preliminary plan to submit a final plan for approval. A final plan shall be approved before any lot, tract, or parcel may be subdivided or any land may be developed, or any street, sanitary sewer, or water main, or any other infrastructure may be laid out, constructed, opened, or dedicated for use or travel.

2. Rejection of the Plan.

In the event that Council rejects the plan, the Council shall submit in writing a complete list of the reasons for that rejection to the applicant within fifteen (15) days of the decision. Failure of the Borough Council to act within the limits of the statutory review period shall constitute approval of the plan.

***SECTION 308 FINAL PLAN SUBMISSION***

A. For major subdivisions and land developments, a final plan shall be submitted within twelve (12) months after preliminary plan approval. A time extension may be granted by the Borough Council where the applicant has demonstrated every effort has been made to comply with this requirement.

B. For major subdivisions and land developments, the Borough Council may permit submission of the final plan in sections according to the requirements of Section 310, Phased Development.

C. Complete Submission

1. A final plan and all necessary supplementary information and data shall be officially submitted to the Borough Administrator who shall forward copies to the following agencies.

- a. Five (5) copies to the Borough Planning Commission.



- b. One (1) copy to the Borough Engineer or representative. The Borough Planning Commission, at their discretion, may waive this review for minor subdivisions.
  - c. One (1) copy to the Borough Zoning Officer.
  - d. One (1) copy to the Borough Administrator (office copy).
  - e. One (1) copy to the Borough Solicitor.
  - f. Five (5) copies for the applicant (three (3) of which to be recorded).
  - g. Appropriate number of copies to those agencies listed in Section 303, Submission to Chester County and Other Agencies,
2. Other items for submission
    - a. Official Borough application forms.
    - b. Required filing fees and escrow deposits as determined by resolution of the Borough Council as set forth in Section 802, Fees and Costs, of this Ordinance.
    - c. Accompanying reports, documentation, and other required materials.

### ***SECTION 309 FINAL PLAN REVIEW***

#### **A. Review by Borough Agencies**

##### **1. Review by the Borough Engineer**

- a. The Borough Engineer shall review the final plan to certify that the required information and content required by this Ordinance is presented in the submitted plans and that the information on the submitted plans does not contain any errors. Furthermore, the review by the Borough Engineer shall include an investigation of the plan to be certain that all other Borough Ordinances are complied with and an examination of the engineering feasibility of the various schemes presented for the location, alignment and grade of streets, stormwater drainage, sanitary sewers and water supply. The Borough Engineer shall confer with the applicant to the extent necessary to obtain conformity of the plan with these regulations and to comment upon the matter subject to his review. He shall forward his written comments on the plan to the Planning Commission within twenty (20) days of receipt of the plan.

b. Review of minor subdivisions by the Borough Engineer may be waived by the Planning Commission in accordance with Section 308.

2. Review by the Borough Planning Commission.

The Borough Planning Commission shall review the final plans at the first regular meeting of the Commission following submittal of the plans to the Borough as outlined in Section 302, Submission of Plan and Statutory Review Period. The Planning Commission, following completion of its review [which shall not exceed fifty-nine (59) days] shall promptly send a written statement of its review and findings to the Borough Council and the applicant within five (5) days, preferably prior to the next regularly scheduled Borough Council meeting. All comments made by the Borough Engineer shall be incorporated with those of the Planning Commission in its submittal to the Borough Council.

3. Review by the Borough Council.

Upon receipt of the recommendations of the Borough Planning Commission and, if applicable, the Chester County Planning Commission, the Borough Council shall review the final plan within the remainder of the statutory period for review and either approve or reject the final plan. The Borough Council shall notify the developer or the agent of the developer of the Borough Council decision in writing within fifteen (15) days of such a decision or by the end of the statutory review period, whichever shall first occur, but before the end of the statutory review period.

B. Course of Action

1. Rejection of the Final Plan

When the application is not approved in terms as filed, the decision of the Borough Council 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 ordinance relied upon.

2. Approval of the Final Plan

a. The applicant shall record the final plan according to the requirements of Section 311, below;

b. The applicant shall execute a subdivision and land development agreement in accordance with Section 312, below, agreeing with the Borough to install all the improvements as required by this Ordinance and all regulations adopted pursuant thereto;

- c. The applicant shall provide a performance guarantee, in cases of land developments, in accordance with Section 313, below.
- d. The applicant shall have applied for all required permits from agencies having jurisdiction over ancillary development, such as Pennsylvania Departments of Transportation and Environmental Protection, Public Utilities Commission, and County Health Department.

### **SECTION 310 PHASED DEVELOPMENT**

In the event a subdivision or land development is to be constructed in phases, the final plan requirements shall apply only to those phases for which final approval is being sought. Each phase of development and corresponding final plan shall cover a reasonable portion of the proposed subdivision as shown on the approved preliminary plan, but in no case shall include less than twenty (20) percent of the total lots or units as depicted on the approved preliminary plan. All public improvements shall be clearly noted in each phase of development.

### **SECTION 311 RECORDING OF THE FINAL PLAN**

- A. After completion of the procedures required by this Ordinance, Borough Council shall place their endorsement on the Final Plan and on as many other copies of the Final Plan as may be desired or required. The Final Plan shall be signed by the President of Borough Council and Secretary, with the Borough Seal. No subdivision or land development plan may be legally recorded unless it bears Borough endorsement indicated by the signatures stated above.
- B. After the plan has been endorsed by Borough Council, the record plan shall be submitted by the applicant or his representing agent to the County Planning Commission for endorsement. A subdivision or land development shall not legally be recorded unless it has been endorsed by the County Planning Commission.
- C. Within ninety (90) days of the final plan approval by the Borough Council, such plan shall be recorded by the applicant in the office of the Recorder of Deeds of Chester County. A minimum of two (2) copies of the approved final plan shall be presented to Recorder of Deeds.

### **SECTION 312 SUBDIVISION AND LAND DEVELOPMENT AGREEMENT**

The applicant shall execute an agreement to be approved by the Borough before the final plan is released by the Borough Council and filed on record. Said agreement shall specify the following, where applicable:

- A. The applicant agrees that he will lay out and construct all streets and other improvements, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm and sanitary sewers, landscaping, traffic control devices, open space areas, erosion and

sediment control measures, and any other improvements in accordance with the final plan as approved, where any or all of these improvements are required as conditions of approval.

- B. The applicant guarantees completion and maintenance of all improvements by means of a type of financial security acceptable to the Borough, as specified in Section 313, Performance Guarantees, of this Ordinance.
- C. The applicant agrees to tender a deed or deeds of dedication to the Borough for such streets and for such easements for sanitary and storm sewers, sidewalks, and other public improvements provided that the Borough shall not accept dedication of such improvements until their completion is certified as satisfactory by the Borough Engineer or representing agent.
- D. The Borough Council shall require the applicant to submit, and also record with the plan, a copy of an agreement made with the Borough Council on behalf of himself and his heirs and assigns, and signed by the applicant, and which shall establish the dedication of all streets to the Borough. The agreement shall stipulate, among other things:
  - 1. That the street shall be dedicated as a whole.
  - 2. Upon dedication, the street shall conform to the Borough specifications.

### ***SECTION 313 PERFORMANCE GUARANTEES***

- A. The applicant shall deposit with the Borough financial security in an amount sufficient to cover the cost of all improvements, both public and private, and common amenities, including but not limited to streets and roads, walkways, curbs, gutters, street lights, shade trees, stormwater detention and/or retention facilities, pipes and other related drainage facilities, buffer or screen plantings, recreational facilities, open space improvements, water mains and other water supply facilities, fire hydrants and sanitary sewage disposal mains and other sewage disposal facilities.
- B. Financial security required herein shall be in the form of a Federal or Commonwealth chartered lending institution irrevocable letter of credit, restrictive or escrow account in such institution or with a financially responsible bonding company, or such other type of financial security which the Borough may, in its reasonable discretion, approve. The bonding company may be chosen by the party posting the financial security, provided that the said bonding company or lending institution is deemed acceptable by the Borough in terms of being financially responsible, is authorized to conduct business within the Commonwealth of Pennsylvania, stipulates that it will submit to Pennsylvania jurisdiction and Chester County venue in the event of legal action, and will, at the time of giving the bond, designate its agent for accepting service in Pennsylvania.
- C. When requested by the developer, in order to facilitate financing, Borough Council 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 or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within ninety (90) days, unless a written extension is granted by the Board; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

- D. The said financial security shall provide for, and secure to the public, the completion of all subdivision improvements for which such security is being posted within one year of the date fixed in the subdivision plan or subdivision agreement for completion of such improvements.
- E. The amount of financial security to be posted for the completion of the required improvements shall be equal to one-hundred-ten (110) percent of the cost of completion estimated as of ninety (90) days following the date scheduled for completion by the developer. Annually, the Borough may adjust the amount of financial security by comparing the actual costs of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the ninetieth (90th) day after either the original date scheduled for completion or rescheduled date of completion. Subsequent to said adjustment, the Borough may require the developer to post additional security in order to ensure that the financial security equals said one-hundred-ten (110) percent. Any additional security shall be posted by the developer in accordance with this Section.
- F. The amount of financial security required shall be based upon an estimate of the cost of the completion for the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such by the Commonwealth of Pennsylvania and certified by such engineer to be a fair and reasonable estimate of such costs. Borough Council, upon recommendation of the Borough Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Borough are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer chosen mutually by the Borough and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable, and shall be the final estimate. In the event that a third engineer is so chosen, fees for the service of said engineer shall be paid equally by the Borough and the applicant or developer.
- G. If the party posting the financial security requires more than one (1) year from the date of posting of the financial security to complete the required improvements, the amount of financial security shall be increased by an additional ten (10) percent for each one (1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding one-hundred-ten (110) percent of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one (1) year period by using the above bidding procedure.
- H. In the case where development is projected over a period of years, the Borough Council 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.

- I. As the work of installing the required improvements proceeds, the applicant posting the security may request the Borough Council to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor performing the work. Any such requests shall be addressed in writing to the Borough Council, and the Borough Council shall have forty-five (45) days from receipt of such request within which to allow the Borough Engineer to certify, in writing, that such portion of the work upon the improvements has been completed in accordance with the approved plans. Upon such certification, the Board shall authorize release by the bonding company or lending institution of an amount as estimated by the Borough Engineer fairly representing the value of the improvements completed. The Borough Engineer, in certifying the completion of work for a partial release, shall certify to the Borough Council his independent evaluation of the proper amount of partial releases. The Borough Council may, prior to final release at the time of completion and certification by the Borough Engineer, require retention of ten (10) percent of the estimated cost of the aforementioned improvements.

#### ***SECTION 314 COMMENCEMENT OF DEVELOPMENT***

No construction activities (including earthmoving activities, but not including soil testing or similar engineering or surveying activities) shall be commenced by the applicant until the final approved plan has been duly recorded with the Chester County Recorder of Deeds.

- A. No earthmoving activities, except those listed above, may commence prior to the applicant receiving all applicable permits from the Chester County Conservation District, Department of Environmental Protection, or the U.S. Conservation Service for earthmoving activities.
- B. No application for a building permit under the Spring City Borough Zoning Ordinance shall be submitted and no building permit under the Spring City Zoning Ordinance shall be issued for any building in any subdivision or land development and no work shall be done on any building in any subdivision or land development until the final plans for said subdivision or land development have been approved as provided for and until a Subdivision and Land Development permit pursuant to Section 311, Recording The Final Plan, hereof has been issued. Further, where final subdivision and land development approval has been conditioned upon the submission and approval of individual lot grading plans for some or all of the lots, no building permit shall be used for construction on any such lot until this condition has been complied with.
- C. No water system or sewer system, including extensions to existing or proposed Borough systems shall be constructed prior to the issuance of appropriate permits from the Pennsylvania Department of Environmental Protection or from other Federal, State or local agencies, as required.

***SECTION 315 PLAN AMENDMENTS***

Major modification of the approved plan, as determined by the Borough, shall be resubmitted and reprocessed in the same manner as the original plan. All site disturbance activities shall cease pending approval of modified plans.

***SECTION 316 RESUBDIVISION PROCEDURE***

For any replatting or resubdivision of land, the same procedure, rules and regulations shall apply as prescribed herein for an original subdivision.