

Chapter 22

Subdivision and Land Development

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Part 1**General Provisions****§22-101. Legislative Authority.**

This Chapter is enacted pursuant to the authority conferred by Pennsylvania Act No. 247 of 1968, as amended by Act 170 of 1988, as further amended, the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(*Ord. 97-2, 2/26/1997, §1.100*)

§22-102. Application.

1. *Jurisdiction and Purpose.* This Chapter shall apply to all subdivisions and land developments located within the Borough of Nesquehoning. This Chapter has been adopted for the purpose of regulating subdivision and land development within Nesquehoning Borough in order to create conditions favorable to the health, safety, morals, and general welfare of the citizens of the Borough.

2. *Interpretation.* The provisions of this Chapter shall be held to be minimum requirements to meet the above-stated purposes. Where provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Chapter shall prevail. Where provisions of any statute, other ordinance, or regulation impose greater restrictions than those of this Chapter, the provisions of such statute, ordinance, or regulation shall prevail.

3. *Grant of Power to Borough Council.* The Council of the Borough of Nesquehoning (the "Council"), will receive and review all plans submitted under this Chapter to determine compliance with this Chapter and the Council is hereby granted the power to approve, disapprove, or approve with conditions all plans required to be submitted under the terms of this Chapter.

4. *Effect of this Chapter.* No subdivision or land development (as defined herein) of any lot, tract, or parcel of land shall be carried out; no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith, shall be laid out, constructed, opened, or dedicated for public use and travel, or the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of this Chapter.

5. *Recording of Approved Plan.*

A. Within 90 days of the approval of the final plan for any subdivision and land development, the subdivider shall record a copy of said final plan in the Office of the Recorder of Deeds of Carbon County, as required in §22-204.

B. The Recorder of Deeds of Carbon County shall not accept any such plan for recording unless it is the final record plan as defined herein which shall contain the official original endorsements of approval by the Council, the Nesquehoning Borough Planning Commission, the review by the Carbon County Planning Commission, and evidence that the plan has complied with the requirements of Pennsylvania Act 247, 53 P.S. §10101 *et seq.*

C. Failure to record the final record plan as required herein shall render all

approvals null and void.

6. *Status of Recorded Plans.*

A. Any subdivision or land development plan recorded prior to the effective date of this Chapter shall be subject to the provisions of this Chapter in the event that any change or resubdivision is made or legally required to be made in said plan.

B. When a final record plan has been approved and recorded, subsequent to the effective date of this Chapter, and in conformance with the terms of this Chapter, then no subsequent change or amendment in any 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 terms of such approval within 5 years from such approval. Where final approval is preceded by preliminary approval, the 5-year period shall be counted from the date of the preliminary approval. In the case of any doubts as to the terms of a preliminary 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 of such approval was duly filed.

(Ord. 97-2, 2/26/1997, §1.200)

§22-103. Short Title.

This Chapter shall be known and may be cited as the “Subdivision and Land Development Ordinance of Nesquehoning Borough.”

(Ord. 97-2, 2/26/1997, §1.400)

§22-104. General Application Procedure.

1. All Subdivision and Land Development Ordinance (SALDO) [this Chapter] application activity shall start at the Borough Hall.

2. The Nesquehoning Subdivision Officer shall refer the applicant to the Nesquehoning Borough Engineer, the Carbon County Planning Commission and any other review agencies required by this Chapter. Then comments shall be considered by the Borough.

3. The Nesquehoning Borough Planning Commission shall review all plans and make their recommendations to the Nesquehoning Borough Council who shall be the final decision on the plan approval, rejection, or approval with conditions.

4. The purpose of the preliminary planning stage is to establish plan and specifications in accordance with this Chapter for the proposed subdivision of land and/or the development of land. Based upon the preliminary plan approval, all required improvements shall be constructed or the applicant shall provide the Borough with financial surety sufficient to guarantee the construction of required improvements. However, no building shall be constructed nor lot sold until the final plan has been approved by the Borough and recorded in Carbon County by the applicant.

(Ord. 97-2, 2/26/1997, §1.600)

Part 2**Plan Submission Procedures¹****§22-201. General Procedure Applicable to the Submission of All Plans.**

1. It is the intent of the Borough Council to expedite the receipt and processing of plans so as to reduce delays which may result in increased costs or inconvenience to the subdivider or to the Borough.

2. The procedure set forth below establishes maximum time limits permissible under State law but the Borough Council, wherever possible, express their intent to have all reviews completed in a more timely manner.

A. *Sketch Plans.* Sketch plans are not required by this Chapter but it is recommended that the subdivider submit such a plan to the Subdivision Officer in order to establish, at an early stage in the planning of the subdivision or land development, the basic conditions required for the approval of a preliminary and a final plan.

B. *Required Plans.* Preliminary and final plans and other required supporting data for all proposed subdivisions and land developments in Nesquehoning Borough shall be submitted by the subdivider to the Borough for review and action by the Borough. The applicant will describe the proposed application for subdivision and/or land development. The Planning Commission and/or Borough Council will review the Borough ordinances and regulations that apply primarily focusing upon this Chapter and the Zoning Ordinance [Chapter 27] requirements. The Borough shall make a recommendation as to whether the proposed application qualifies as a “minor subdivision” and whether the application will skip the preliminary plan stage.

(1) *Preliminary Plan.* Except for any sketch plan which is submitted, the initial plan filed with the Borough for review shall be considered the official preliminary plan. Said preliminary plan shall be reviewed to determine compliance with these regulations and said plan shall be approved, approved with conditions or rejected or disapproved and the subdivider notified accordingly. However, the Borough Council may proceed to final action at the first consideration of a plan for a “minor subdivision” as defined herein, in accordance with the procedure set forth in §22-205.

(2) *Final Plan.*

(a) After approval of the preliminary plan, the final plan for the entire subdivision or land development or a final plan for a section or stage of development which has been prepared in accordance with the approved preliminary plan, shall be submitted by the subdivider to the Borough. Said final plan shall be reviewed to determine compliance with these regulations and said plan shall be approved, approved with conditions,

¹Editor’s Note: Introductory note to Part provided: “The following procedures shall be observed by all subdividers.”

rejected, or disapproved and the subdivider notified accordingly.

(b) Prior to submitting the official preliminary plan for review, the subdivider is encouraged to prepare a sketch plan for informal discussion with the Nesquehoning Borough Planning Commission, Borough Council, and/or with other appropriate Borough personnel.

C. *County and Other Agency Reviews.* Copies of all plans submitted to the Borough shall be forwarded by the Borough to the Carbon County Planning Commission and to other appropriate agencies upon their receipt for review and advice by these agencies within a period of 30 days.

D. *Consideration of Plans.*

(1) Subdivision and land development plans and supporting data submitted to the Subdivision Officer will be referred to the Planning Commission and to Borough Council. Initial consideration shall occur at the next regularly scheduled meeting of the Borough Planning Commission provided that plans are received at least 10 calendar days in advance of said meeting.

(2) Findings and recommendations of the Planning Commission shall be referred to the Borough Council for consideration and appropriate action.

E. *Action and Notification.* The Planning Commission shall consider all plans submitted to determine compliance with this Chapter and shall submit its findings and recommendations to Borough Council. Action on all plans received shall occur in accordance with the procedure set forth in §22-203.

(1) After the plan is filed and all required copies of plans, engineering drawings, fees, and other required exhibits have been received by the Borough, the Borough Council shall reach a decision on the plan no later than 90 days following the date of the next regular meeting of the Planning Commission which follows the date that application is filed; provided, that should the said next regular meeting of the Planning Commission occur more than 30 days following the filing of the application, the said 90-day period shall be measured from the thirtieth day following the day the application has been filed.

(2) Borough Council shall notify the subdivider in writing no later than 15 days after the date when a decision is reached. When a plan is not approved, or approved with conditions, the decision of the Borough Council shall specify the defects found in the plan and shall cite the provisions of the Chapter which have not been met.

(3) Failure of the Borough to render a decision and communicate it to the subdivider 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 and communication of the decision, in which case, failure to meet the extended time or change in manner of presentation and communication shall have like effect.

(4) If the preliminary or final plan is approved subject to conditions, then the subdivider shall either accept or reject such conditions in writing within a period of the 15 days of receipt of such conditions. Any conditional approval shall be rescinded automatically if the subdivider fails to accept or reject such

conditions within the 15-day time period established above.

F. *Public Hearing.* Before acting on any preliminary or final plan, the Borough Council may hold a public hearing thereon after public notice.

G. *Recording of Final Plan.* After the effective date of final plan approval by the Borough Council, the subdivider/applicant shall record such plan in the form of a record plan within a period of 90 days in the Office of the Recorder of Deeds of Carbon County.

(Ord. 97-2, 2/26/1997, §2.100)

§22-202. Fees.

Fees for review and processing of subdivision and land development plans to determine compliance with this Chapter shall be charged to the subdivider/applicant in accordance with Appendix 22-B attached hereto and the fee schedule set by resolution of the Nesquehoning Borough Council and as may be amended from time to time.

(Ord. 97-2, 2/26/1997, §2.200)

§22-203. Plan Applications.

1. *Sketch Plans.*

A. Sketch Plans and supporting data shall comply with the provisions of Part 6 of this Chapter.

B. For the purpose set forth in §22-201.2.A, six copies of the sketch plan may be submitted by the subdivider to the Subdivision Officer, together with the required application form. No fee shall be required.

C. The Subdivision Officer shall transmit copies to the following:

- (1) Nesquehoning Borough Council - one copy.
- (2) Nesquehoning Borough Planning Commission - two copies.
- (3) Nesquehoning Borough Engineer - one copy.
- (4) Carbon County Planning Commission - one copy.

D. At its next regularly scheduled meeting the sketch plan shall be reviewed by the Planning Commission. It is recommended that the subdivider be present at the meeting to answer questions. The Commission shall identify areas of concern or possible modification which may be required in the plan to comply with this Chapter.

E. Since the sketch plan is not officially required, no official action need be taken by the Planning Commission or Borough Council. However, the areas of concern or possible modification shall be summarized in letter form and submitted to the subdivider and the Borough Council within 15 days of the date of the meeting.

2. *Preliminary Plan.*

A. Preliminary plans and supporting data shall comply with the provisions of Part 6 of this Chapter.

B. Eight copies of the preliminary plan shall be submitted by the subdivider

to the Subdivision Officer, together with the required application form and fee. Additional copies may be requested if required for submission or reference to other appropriate agencies.

C. The applicant shall inform and transmit copies of the preliminary plan, application form and supporting data to the following:

- (1) Nesquehoning Borough Council - two copies.
- (2) Nesquehoning Borough Planning Commission - two copies.
- (3) Carbon County Planning Commission - four copies.

(4) Other appropriate agencies - the applicant shall submit copies of the plan to the County Conservation District, the Pennsylvania Department of Transportation, the Pennsylvania Department of Environmental Protection and/or other agencies or utility companies affected by or having an interest in the plan. It shall be the applicant's responsibility to submit those plans and submit their review comments to the Nesquehoning Borough Planning Commission. Any negative findings resulting from these reviews that cannot be mitigated by the applicant may be cause for the Borough Planning Commission to recommend against approval of the plan to the Nesquehoning Borough Council.

D. The preliminary plan shall be reviewed by the Planning Commission and the Commission shall submit a letter or report to the Borough Council setting forth its findings, and recommendations for approval, approval with conditions, or disapproval and setting forth the reasons for such recommendations. Said action by the Planning Commission shall only be advisory and final action shall be the responsibility of the Borough Council.

E. Upon receipt of the findings and recommendations from the Planning Commission and from other appropriate agencies, or from any engineer or professional persons retained by the Borough, the Borough Council at their next regular meeting shall review the preliminary plan and all other applicable comments received. The Council may also hold a public hearing on the plan subject to public notice as defined herein. Upon conclusion of its deliberations the Borough Council shall take action to approve, approve with conditions or disapprove the subdivision plan or land development with reasons for disapproval specifically stated. When such a preliminary plan is approved subject to conditions or other actions to be taken by the subdivider, the Borough Council shall specify a time limit for compliance by the subdivider.

F. The official action and decision of the Borough Council shall be in writing and shall be forwarded to the subdivider at his last known address, not later than 15 days following such action, with a copy to both the Borough and the Carbon County Planning Commission. In the case of a rejection or disapproval of the plan, the Borough Council shall specify the defects of the plan and the requirements of this Chapter which have not been complied with.

G. Approval of the preliminary plan, subject to conditions, revisions, and modifications as stipulated by the Borough Council as required herein, shall constitute conditional approval of the subdivision as to the character and intensity of the development and the general layout and appropriate dimensions of streets, lots, and other proposed features, and such approval shall entitle the subdivider to

submit plans for final review as set forth below.

3. *Final Plan.*

A. A final plan with supporting data shall be submitted within 1 year after approval of the preliminary plan; provided, that an extension of time may be granted by the Borough Council upon written request for a valid reason presented by the subdivider. Otherwise, the plan submitted may be considered as a new preliminary plan.

B. The final plan shall conform in all important respects with the preliminary plan as previously reviewed by the Borough Council and shall incorporate all modifications and revisions specified in any prior conditional approval of the preliminary plan. A final plan may be accepted for review which has been modified to reflect changing conditions since the time of preliminary plan review. Other modifications, not previously submitted to and considered by the Borough, may be sufficient cause for considering the plan to be a revised preliminary plan.

C. The Borough may permit submission of the final plan in sections or stages, each covering a portion of the entire proposed subdivision as shown on the preliminary plan, except that the first stage shall be submitted within 1 year after approval of the preliminary plan as required in paragraph .A.

D. The Borough may require that any final plan or any section or stage of a final plan which is not completed within 5 years from the date of preliminary plan approval, as required by §22-102.6, may require a new preliminary plan submission to reflect changing conditions or legal requirements which may affect the subdivision or land development unless an extension of this 5-year limit is granted by the Borough Council upon written request.

E. The final plan and supporting data shall comply with the provisions of Parts 6 and 7 of this Chapter. Failure to do so may be sufficient cause for tabling or rejecting the plan.

F. Four copies of the final plan with supporting data shall be submitted to the Subdivision Officer for review and official approval signatures. The Subdivision Officer shall transmit copies of the plan to:

- (1) Nesquehoning Borough Council - two copies.
- (2) Nesquehoning Borough Planning Commission - two copies.

The Applicant shall submit copies of the Plan to the following:

- (3) Carbon County Planning Commission - four copies.
- (4) Utility Company(s) - one copy.

The Planning Commission shall determine if additional copies of the plan are required by the Borough to properly review the plan.

G. The final plan shall be received by the Planning Commission and the Commission shall submit a letter or report to Borough Council setting forth its findings and recommendations for approval, approval with conditions, or disapproval and setting forth the reasons for such recommendations. Said action by the Planning Commission shall only be advisory and final action shall be the responsibility of the Borough Council.

H. Upon receipt of the findings and recommendations from the Planning

Commission and from other appropriate agencies, or interested parties or any engineer or professional persons retained by the Borough, the Borough Council at their next meeting shall review the recommendations and comments received. The Council may also hold a public hearing on the plan subject to public notice as defined herein. Upon conclusion of its deliberations the Borough Council shall take final action to approve, approve with conditions or disapprove the final plan or land development with reasons for disapproval specifically stated. Approval by the Borough Council shall in all cases, where applicable, be subject to agreement by the subdivider/applicant to execute the proposed development agreement required in Part 7. When a final plan is approved subject to conditions or other actions to be taken by the subdivider, the Borough Council shall specify a time limit for compliance by the subdivider.

I. The official action and decision of the Borough Council shall be in writing and shall be forwarded to the subdivider personally or to his last known address not later than 15 days following such action. A copy of said notification shall be sent to both the Borough Planning Commission and Carbon County Planning Commission. In the case of a rejection or disapproval of the plan, the Borough Council shall specify the defects of the plan and the requirements of this Chapter which have not been complied with.

J. When the Borough Council has approved the final plan, and when all other approvals, conditions and agreements required herein, including the provisions of §§22-702, 22-703, and 22-704, as required herein, have been satisfied, the President of Borough Council and/or the Borough Manager and the Borough Secretary shall endorse five copies of the final plan to that effect. One copy of the endorsed final plan shall be kept in the Borough files, one copy to the County for recording the plan, one copy shall be transmitted to the Carbon County Planning Commission and the other two returned to the subdivider. Additional copies may be endorsed to meet the needs of the subdivider and other agencies.

K. The effective date of final plan approval shall be the date when the final plan is endorsed as set forth in paragraph .J above.

4. *Conditional Approvals.* If the preliminary or final plan is approved, subject to conditions, then the subdivider shall either accept or reject such conditions in writing within a period of the 15 days of receipt of such conditions. Any conditional approval shall be rescinded automatically if the subdivider fails to accept or reject such conditions within the 15-day time period established above.

(Ord. 97-2, 2/26/1997, §2.300)

§22-204. Recording of Final Plan.

1. The subdivider shall record the final record plan in the Office of the Recorder of Deeds of Carbon County within 90 days after the effective date of approval by the Borough Council. The copy of the final plan filed for recording shall be known as the record plan. It shall be a clear and legible document in a form as required by the County Recorder of Deeds, bearing all required endorsements. Failure to record the final plan as required herein shall render all approvals null and void.

2. The Recorder of Deeds of Carbon County shall not accept any such plan for recording unless it is the final record plan as defined herein which shall contain the

official original endorsements of approval of the Borough Council.

3. The Borough Council may extend said 90-day limit, if requested in writing and if compliance with any condition for approval as set forth by the Borough Council shall require a greater time limit for recording.

(Ord. 97-2, 2/26/1997, §2.400)

§22-205. Plans Exempted from Standard Review Procedures.

A simplified procedure for the submission and approval of subdivision and land development plans may be utilized when the following conditions exist:

A. *Minor Subdivisions.*

(1) The subdivider of a small subdivision defined herein as a “minor subdivision,” which is less than 10 acres in size, which contains no more than five lots, and does not involve the provision of any new streets, easements of access, or other required improvements, may elect to omit the preliminary plan application review set forth above. The Borough Council may, for subdivisions exceeding 10 acres in size where large lots are proposed, waive the 10 acre maximum requirements set forth above, provided that such a subdivision shall not be the first stage of a larger development or tract.

(2) In such a case, the subdivider shall submit the final plan application which shall be processed by the Planning Commission in accordance with the requirements of §22-203. Said final plan application, if it does not require any alteration or modification, may be reviewed and approved in accordance with the procedures set forth in §22-203.3. However, in the event that a modification or condition for approval is required, then the plan shall be considered to be a preliminary plan and a new final plan application incorporating the required conditions or modifications shall be submitted. Any subdivider desirous of following this procedure may also submit a sketch plan as set forth in §22-203.1 in order to expedite the preparation of the final plan.

B. *Agricultural Parcels.* The division of land, by lease, for agricultural purposes into parcels of more than 10 acres and not involving any new street or easement access is exempted from the provisions of this Chapter, except that this shall not apply to agricultural subdivisions which are also used for other purposes such as for recreation, seasonal, or year-round residential, commercial, industrial, or other nonagricultural activities.

C. *Minor Land Developments.* The proposed construction of any structure that will have less than 3,000 square feet of floor space and shall be less than 30 feet in height shall follow the above procedure for a minor subdivision.

D. *Subdivision of Existing Developed Lot.* The minimum requirements shall be as follows:

(1) Separate sewer, water, electric, and other utilities service for each dwelling unit to be created for possible separate ownership.

(2) Provision of at least 75 percent of the required off-street parking standard for the proposed land use as required by the Nesquehoning Zoning Ordinance [Chapter 27].

(3) Resolution of any health and safety problems in the property that

shall be identified by an inspection of the Borough Subdivision Officer or a certified International Code Council licensed inspector or equal. [*Ord. 2013-1*]
(*Ord. 97-2, 2/26/1997, §2.500; as amended by Ord. 2013-1, 6/26/2013*)

Part 3**Design Standards****§22-301. Application.**

This Part sets forth certain minimum design standards which shall apply to all subdivisions and land developments and which shall govern the layout and location of physical features included in any plan.

(Ord. 97-2, 2/26/1997, §3.100)

§22-302. Design Standards Details.

The design standards listed below, shall be incorporated in all proposed plans.

A. Conformance with Other Requirements.

(1) All subdivisions and land developments shall comply fully with all Federal, State, County, Borough, and other applicable laws and regulations. Evidence of the receipt of any permits or approvals required by such laws and regulations shall be submitted by the subdivider and shall be a condition of the approval of any plan submitted under this Chapter.

(2) Where such other laws and regulations are more restrictive than those contained herein, such other regulations shall be observed unless specifically stated otherwise herein.

B. General Design Standards and Comprehensive Plan Requirements.

(1) Land shall be suited to the purpose for which it is to be subdivided. Land which is unsafe or unsuited for development due to flooding, wetlands, subsidence, underground fires, open quarries, unconsolidated fill, steep slopes, or other hazardous conditions shall not be subdivided unless proper safeguards are provided by the developer and approved by the Borough Council.

(2) Consideration shall be given in the design of all land developments and subdivisions to the future development needs of the Borough and to any objectives established in any Borough comprehensive or master plan for land use, streets and thoroughfares, public utilities and facilities, and to other governmental plans affecting the subdivision and land development.

(3) All subdivision and land development plans shall conform with the requirements of any zoning ordinance or official map adopted by the Borough.

(4) No subdivision or land development plan shall create a “nuisance” for any abutting property, the neighborhood in which the plan is proposed or for the Borough as a whole. The Council shall determine if a “nuisance” is being created by the plan, as defined by applicable Federal, State, County, and Borough laws and regulations.

(5) In reviewing subdivision and land development plans, the Borough will consider the adequacy of existing or proposed community facilities to serve the additional dwellings or uses proposed by the subdivision.

(6) Areas may be required to be provided or reserved for such community facilities and these should be adequate to provide for building sites, landscap-

ing, and off-street parking as appropriate to the use proposed.

(7) The layout of the proposed subdivision shall be in general conformity with the features or developments proposed in any officially adopted plan of the Borough.

(8) All plan proposals shall be coordinated with existing and proposed development on adjoining or adjacent land.

(9) Unless specifically set forth herein design standards for streets and driveways shall, if deemed required by the Borough Council, be as set forth in the latest edition of PennDOT publication entitled "Guidelines for Design of Local Roads and Streets - Publication 70."

C. *Environmental Protection Requirements and Standards.*

(1) In the design of any subdivision and land development, the Borough shall require that maximum consideration be given to the preservation and protection of the natural environment so as to safeguard the public health, safety and welfare of all residents of the Borough and to minimize any adverse effects resulting from the proposed development.

(2) Where the development may create an environmental problem which affects the public health, safety or welfare, the Borough may require and the subdivider shall present a plan indicating the specific manner in which the problem will be minimized or eliminated, as further set forth in subparagraph (3) below.

No preliminary or final plan application shall be considered for approval until such a required environmental plan has been submitted. The Borough may refer such a plan to any appropriate governmental or other agency or authority qualified to review and/or determine if the plan meets the requirements and objectives of this Chapter and the requirements of any other Federal, State, County, Borough, or other applicable law or regulation.

(3) Environmental factors, problems, and areas for which the Borough Council may require a plan include, but are not limited to, the following:

(a) Erosion and sedimentation control for which a plan is required as set forth in paragraph .O.

(b) Soil conservation and topsoil protection.

(c) Identification and preservation of wetland areas.

(d) Groundwater aquifers and recharge areas.

(e) Steep slope areas.

(f) Avoidance of drainage problems and provisions of stormwater runoff control.

(g) The portion of the Borough of Nesquehoning which is located within the Nesquehoning Creek Watershed Area shall require compliance with all applicable provisions of the Stormwater Management Plan for the Nesquehoning Creek Watershed prepared and adopted by the Carbon County Planning Commission in accordance with the provisions of Act 167, the Pennsylvania Stormwater Management Act, 32 PS. §680.1 *et seq.*, and approved by the Pennsylvania Department of Environmental Protection

(DEP), including compliance with the implementing ordinance recommended in that plan.

(h) Natural and historic feature preservation.

(i) Adequate provision of utilities in accordance with paragraphs .M and .N.

(j) Sewage system for which a plan may be required in accordance with paragraph .M.

(k) Protection of floodplain areas and avoidance of future flooding problems.

(l) Protection of rivers, streams, ponds, lakes, and river frontage preservation.

(m) Tree preservation, removal, and planting.

(n) Topographic and geologic factors.

(o) Areas of carbonate geology which are subject to subsidence and sinkhole formation for building development shall be identified.

(p) Preservation of prime agricultural land.

(q) Control of excessive noise.

(r) Control of excess traffic created by the proposed subdivision.

(s) Where applicable, as determined by the Borough, a reclamation and a reseedling plan may be required for mining or earthmoving activities or for any use which substantially modifies the nature of the existing terrain or environment, or which is of a type identified in subsections (4), (5), and (6) below.

(t) Protection of the old structures and pathways of the Gravity Railroad line where it crosses the property to be subdivided or developed.

(4) No subdivision or land development plan shall be approved if it creates any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, radioactivity, chemical storage, environmental, or other hazard; noise or vibration; smoke, dust, dirt, or other form of air, solid waste, or water pollution; electrical, glare, traffic congestion, or other disturbance of a permanent or recurring nature which will adversely affect the surrounding area or premises, or be dangerous to public health and safety. The Borough may determine compliance with this Section based on the following:

(a) Data and information submitted by the subdivider.

(b) Where such data and information is not sufficient to reach a determination, the Borough may require additional information from the subdivider.

(c) Detailed expert review of all such plans to determine compliance in accordance with established standards or with regulations of applicable governmental agencies. The Borough may consider the qualifications of all experts as a factor in evaluating conflicting evidence or testimony. Fees to be incurred by the Borough in such reviews shall be paid by the subdivider as set forth in §22-202 and Appendix 22-B.

(5) No subdivision or land development shall create any environmental or nuisance problems which adversely affect areas which are predominately used for residential purposes. Such problems shall consist of the keeping of livestock in or near residential areas, or buildings, or the conversion of a barn, shed, or other building for a use involving the keeping of livestock near or in residential areas, operations resulting in excessive noise, odors, pollution, dangerous chemical storage conditions or other operations, or uses resulting in unsafe, dangerous, toxic, or other conditions adversely affecting the health and welfare of nearby residents.

(6) Timber foresting, harvesting, and logging operations shall be subject to all applicable DEP, County Conservation District or other existing State or Federal regulations.

D. Street System Layout and Design Standards.

(1) Street dimensions and design standards shall be in accordance with PennDOT Publication entitled “Guidelines for Design of Local Roads and Streets - Publication 70,” as it pertains to urban areas, or to any other standard officially adopted by Borough Council and to the additional requirements set forth in this Chapter and in Appendix 22-A attached.

(2) Proposed streets shall be designed to provide safe and efficient access to all parcels, to create a functional street system and each street contained in a subdivision or land development plan shall be classified as either a “major street,” “collector street,” “local or minor street,” or “nonresidential street” as defined herein. Such streets shall be designed to minimize street intersections and pedestrian-vehicular conflicts and in accordance with the standards for the appropriate class of street as defined in PennDOT Publication 70.

(3) Minimum street width requirements for new street construction are set forth in Table 22-I below:

**Table 22-I
Minimum Street Width Requirements (a)(d)
for New Street Construction**

Street Requirement	Minimum Width (ft.)			
	Major or Arterial Streets	Collector and Nonresidential Streets	Local or Minor Streets	Marginal Access Street (One-way)
Right-of-way	(b)	55	50	30
Pavement	(b)	36	34	18
Curbs	(b)	(c)	(c)	(c)

Notes:

- (a) This table applies to new construction and to reconstruction where space permits.
- (b) Major or arterial streets are dependent on the number of lanes of traffic to be designed in accordance with PennDOT standards.
- (c) Curbs shall be required on both sides of all street pavements.
- (d) Other street design requirements are set forth in Part 3 and in Appendix 22-A this

Chapter.

(4) The location of all major streets in the proposed subdivision and land development shall conform in general alignment to any official approved comprehensive plan or portion thereof adopted by the Borough.

(5) Where a proposed subdivision abuts an existing street which has a narrow width, improper alignment or other deficiency, the Borough may require dedication, reservation or easement for additional right-of-way within the property limits of said proposed subdivision to correct the existing deficiency in accordance with Borough requirements.

(6) The street system layout shall make adequate provision for any possible resubdivision or new additional subdivision of the area being subdivided.

(7) All streets shall be “public streets” suitable for dedication to the Borough.

(8) The proposed street layout shall provide for the continuation or projection of existing streets in the surrounding area unless the Borough deems such extension undesirable for specific reasons of topography or design.

(9) Streets shall be logically related to the topography to produce usable lots or development parcels and reasonable grades.

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

(11) Alleys shall not be provided in residential districts but may be included in commercial and industrial areas where needed for loading and unloading or access purposes.

(12) Proposed streets shall be extended to provide access to adjoining property where necessary to preserve the public health, safety, or welfare.

(13) Where lots in the proposal are large enough to permit resubdivisions, or if a portion of the tract is not subdivided. The Borough may require adequate street rights-of-way to be reserved for future use.

(14) Where a subdivision abuts or contains an existing or proposed major street, the Borough may require marginal access streets, rear service alleys, reverse frontage lots, or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with the major street, and separation of local and through traffic. Where residential reverse frontage lots are utilized, they shall have a rear yard with a minimum depth of 75 feet to the ultimate right-of-way of the major street on which they abut and they shall have a planting screen easement at least 10 feet wide, across which there shall be no right of access.

(15) 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 contained herein and where satisfactory assurance for dedication of the remaining part of the street can be secured.

(16) Wherever a tract to be subdivided borders an existing half or partial

street, the other part of the street shall be plotted within such tract.

(17) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sac streets.

(18) New reserve strips, including those controlling access to streets, shall be avoided.

(19) Names for all new subdivisions, streets, playgrounds and parks shall be shown on all plans and approved by the Borough. No name shall be approved which will duplicate or be confused with the name of an existing subdivision, street, playground, or park. Existing street names shall be continued whenever possible.

E. Street Intersections.

(1) Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60 degrees.

(2) Multiple intersections involving junction of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.

(3) Clear sight triangles shall be provided at all street intersections within which no obstruction to vision shall be permitted between a height of 2 to 10 feet above the center line grade of each street. Such clear sight triangles shall be established from the point of intersection of the center lines of the intersecting streets for a distance of 75 feet where both streets are local streets, 100 feet where one or both streets are collector streets or nonresidential streets, and 150 feet where one or both streets are major streets.

(4) To the fullest extent possible, intersections with major streets shall be located not less than 800 feet apart, measured from center line to center line.

(5) Two streets intersecting a third street from opposite sides shall be laid out directly opposite one another or with a minimum center line offset of 125 feet when all streets are local streets, or with a minimum center line offset of 300 feet when one or more of the streets is a collector street, a nonresidential street or a major street.

(6) Minimum pavement, cartways, or curb radii at street intersections shall be 15 feet for intersections involving only local streets, 35 feet for intersections involving collector streets or nonresidential streets and 50 feet for intersections involving major streets.

(7) Where the grade of any street at the approach to an intersection exceeds 7 percent, a leveling area shall be provided having not greater than a 5 percent grade for a distance of 35 feet measured from the nearest right-of-way line of the intersecting street.

F. Cul-de-sac Streets.

(1) Dead-end streets serving more than four dwelling units shall be designed as cul-de-sac streets with an improved turnaround.

(2) Cul-de-sac streets, or any system of interconnected cul-de-sacs served by only one access point to a collector road, permanently designed as such, shall be considered to be local streets and they shall not exceed 800 feet in

length, and shall generally furnish access to a total of not more than 20 dwelling units.

(3) Cul-de-sac streets shall be provided at the closed end with a paved turnaround having a minimum radius to the outer improved edge or curb line of 40 feet and a minimum right-of-way radius of 50 feet.

(4) Unless future extension is clearly impractical or undesirable, a right-of-way of the same width as the street shall be carried to the property line from the end of the cul-de-sac in such a way as to permit future extension of the street into the adjoining tract.

G. *Lot Design Standards.*

(1) Area and other dimensions of lots and parcels shall conform with the requirements of any zoning ordinance adopted by the Borough.

(2) All lots shall front on a public street.

(3) Side lot lines shall be substantially at right angles or radial to street lines.

(4) If remnants of land exist after subdividing, they shall be incorporated into existing or proposed lots, or dedicated to public use if acceptable to the Borough.

(5) Double frontage lots are prohibited, except where employed to prevent vehicular access to major traffic streets.

H. *Blocks.*

(1) The length, width, and shape of blocks shall be determined with due regard to the following:

(a) Provision of adequate sites for buildings of the type proposed.

(b) Zoning requirements.

(c) Topography.

(d) Requirements for safe and convenient vehicular and pedestrian circulation.

(2) Blocks shall normally have a minimum length of 750 feet or maximum length of 1200 feet. In the design of blocks longer than 1000 feet, special consideration shall be given to the requirements of satisfactory fire protection and pedestrian travel.

(3) Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots bordering a major traffic street are used; where special super block, cluster design, planned unit developments or other large scale, commercial or industrial developments are proposed or where topographic or other conditions prevent such a design.

(4) Pedestrian interior crosswalks may be required where necessary to assist circulation or provide access to community facilities. Such crosswalks shall have a right-of-way width of not less than 10 feet and a paved walk of not less than 4 feet.

I. *Off-Street Parking and Loading.*

(1) Off-street parking spaces shall be provided as required by the Borough

Zoning Ordinance [Chapter 27].

(2) Depth and width of parcels laid out or reserved for nonresidential use shall be sufficient to provide satisfactory space for off-street parking and unloading for the intended use.

J. *Driveways.*

(1) Driveway widths shall be designed to properly and safely serve the function for which they are intended. Such driveways shall not be less than 10 feet wide or greater than 30 feet wide.

(2) Driveway entrances shall be clearly defined and shall provide a minimum turning radii at the street intersection of 10 feet when serving a residential area and 30 feet when serving a nonresidential development. Such turning radii shall be properly constructed in relation to the type of pavement or curb provided.

(3) The number of driveways and driveway intersections on a major street shall be minimized and avoided where possible. Permits for driveways intersecting with State roads or highways shall be secured from the Pennsylvania Department of Transportation. Such driveway intersections shall generally not be located closer than 70 feet from any street intersection right-of-way line.

(4) Driveway grades shall not exceed 10 percent when access is to a collector or local street, or 7 percent when access is with a major street, except where such excess grade is required to provide adequate access to the parcel and in such cases, a 7 percent leveling area shall be provided within 20 feet of the street right-of-way line.

K. *Storm Drainage.*

(1) All parcels shall be laid out and graded to provide positive drainage away from buildings.

(2) Storm sewers, culverts, and related installations shall be provided for the following purposes:

(a) To permit unimpeded flow or natural water courses.

(b) To insure adequate drainage of all low points along the line of streets.

(c) To intercept stormwater runoff along streets at intervals reasonable related to the extent and grade of the area drained.

(3) In the design of storm sewerage installations, special consideration shall be given to avoidance of problems which may arise from concentration of stormwater runoff over adjacent properties.

(4) Stormwater management shall conform with the design standards for drainage and stormwater management set forth in §2.J of Appendix 22-A, and with the requirements of any applicable ordinance adopted by the Borough of Nesquehoning pursuant to the provisions of Act 167, the Pennsylvania Stormwater Management Act, 32 P.S. §680.1 *et seq.*

(5) Storm drainage systems shall be designed separately from any sanitary sewer systems and such storm systems shall be installed in accordance with sound and established engineering practices as determined by the

Borough. Such storm systems shall be designed to accommodate any storm discharges from the property being subdivided and additional runoff which may occur from higher elevations within the same watershed when it is fully developed. Such storm systems shall not overload existing storm drainage systems or create flooding hazards.

(6) Facilities such as bridges, culverts, dams, and other drainage facilities affecting the flow of water in a watershed shall meet the requirements and be approved by any State agency having jurisdiction over such facilities. The necessary permits under Chapter 105 for any obstruction or dam must be obtained from DEP.

L. *Easements.*

(1) Easements with a minimum width of 20 feet plus the width of any physical improvement, or with the minimum width of any natural swale shall be provided as necessary for all utilities and drainage facilities, including installation of "private" utility services.

(2) Above-ground utilities shall be placed along the rear or side lot lines unless they are existing along the street prior to the submission of the preliminary plan to the Borough.

(3) Easements for installation of underground conduits for electric power, telephone and television cable lines shall be provided so that each lot or leased unit can be practically served.

(4) To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.

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

(6) A shade tree easement shall be provided. The preliminary and final plans shall reserve an easement authorizing the Borough to plant shade trees within 5 feet of the required street right-of-way.

(7) An historic easement donation would be appreciated for the pathway of the Gravity Railroad, and any structure related to that railroad. A standard 30-foot easement is required for the old railroad which may become a future pathway for pedestrians or vehicles. Such donated easements shall be delineated on both the preliminary and final SALDO required plans.

M. *Water Supply and Sewerage Facilities.*

(1) All subdivisions and land developments located along an existing public water or sewer line or within 200 feet of a public or central water supply and sewer system shall be served by that system.

(2) The sewer system shall meet the requirements of the Act 537 Official Sewage Facilities Plan for Sewage Systems adopted by the Borough as required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, as amended, and by the requirements of the Pennsylvania Department of Environmental Protection. Such facilities shall be designed in accordance with requirements of the Pennsylvania Department of Environmental Protection,

the Borough and any Authority having jurisdiction over such facilities, subject to the review and approval of the Borough.

(3) Any supplement or plan revision of the official plan for sewage systems, as required by Pennsylvania DEP requirements, shall be prepared by the subdivider and approval by DEP shall be a condition for the final approval of any subdivision or land development. It is recommended that an application for such required supplements or plan revisions be initiated by the subdivider during the preliminary plan phase and prior to submission of the final plan.

(4) All water supply systems and sanitary sewer systems located in any designated floodplain district shall be flood-proofed up to the regulatory flood elevation.

N. *Other Utilities.*

(1) A plan for providing all necessary utility services to the proposed subdivision and land development shall be prepared by the subdivider in cooperation with the appropriate public utility companies and governmental agencies. Wherever possible utilities shall not be placed under the paved or improved portion of a street and easements should be provided to facilitate utility locations in areas which will facilitate easy access to and repair of utility lines.

(2) Fire hydrants shall be required in all areas, with input to the Borough Planning Commission and Borough Council by the Nesquehoning Borough Fire Department. Spacing of hydrants shall be such that no residential structure shall be farther than 600 feet and no nonresidential structure shall be farther than 400 feet from a hydrant. Additional standards published by the Insurance Services Office of Pennsylvania may also be applied by the Borough.

(3) All electric utility distribution lines, telephone, cable TV, and other similar lines shall be installed underground in subdivisions or land developments of five or more dwelling units.

(4) Wherever practicable, in accordance with good engineering practice, utility easements and trenches shall be occupied jointly by compatible utilities.

(5) All public and/or private utilities and facilities including gas and electric shall be elevated or flood-proofed up to the regulatory flood elevation.

O. *Erosion and Sedimentation Control.*

(1) The Pennsylvania Department of Environmental Protection, under the authority of the Pennsylvania Clean Streams Act, 35 P.S. §691.1 *et seq.*, requires that all subdividers proposing subdivisions and land developments requiring the movement of earth shall prepare an erosion and sedimentation control plan. Said plan shall be prepared in accordance with Title 25, Pa. Code, Article II, and shall be submitted to the Borough as a part of the final plan submission.

(2) The following NPDES permits for construction shall also be required as a condition for final approval of any subdivision or land development plan. These permits shall be obtained from Pennsylvania DEP, after consultation with the Carbon County Conservation District:

Parcel Size	Type of Permit Required
0 to 0.9 acres [<i>Ord. 2013-1</i>]	No NPDES permit required
1 to 24.9 acres [<i>Ord. 2013-1</i>]	NPDES general permit
25 or more acres	NPDES individual permit

P. *Additional Nonresidential Requirements.*

(1) Wherever possible, commercial and industrial parcels should include enough land to provide for a group of commercial establishments to be planned, developed, and operated as a unit. Such a development shall be planned with coordinated driveways, parking areas, and other common facilities. Narrow, highway ribbon developments fronting directly on a major street should be discouraged, whenever possible.

(2) Traffic movements in and out of commercial and/or industrial areas should not interfere with external traffic, nor should it create hazards for adjacent residential areas.

(3) The design of streets, service drives and pedestrian ways should provide for safe and hazard-free internal circulation.

(4) Block layout and design shall give due consideration to site conditions, to the best possible service to customers, traffic and parking circulation, and pick-up and delivery services.

(5) The total area shall be sufficient to provide adequate space for off-street parking and loading, landscaping, and other facilities required to properly serve the intended use.

Q. *Solar Orientation and Energy Conservation.*

(1) All developers are encouraged to use recognized solar design principles and features which will maximize the use of individual building sites for passive solar building construction.

(2) Such solar principles include the following:

(a) Layout of streets to provide a maximum number of sites with a southern orientation to maximize solar heat gain.

(b) Minimum use of north facing building exposures.

(c) Protection of solar access.

(d) Landscaping to complement solar use and to promote cooling in the summer.

(e) Protection of trees.

(f) Shading for summer solar exposures.

R. *Large Scale or Planned Unit Developments.* Where planned unit, residential clusters or large scale developments are permitted by any zoning ordinance adopted by the Borough, modification of the design standards in Part 3, to accommodate such uses may be approved as set forth in §22-902.1.C.

(*Ord. 97-2, 2/26/1997, §3.200; as amended by Ord. 2013-1, 6/26/2013*)

Part 4**Mobile Home Parks****§22-401. Design Standards.**

All subdivisions and land developments designed as a mobile home park shall comply with the requirements of the Nesquehoning Borough Zoning Ordinance [Chapter 27] and the State of Pennsylvania for such mobile home parks. All such parks shall be subject to the following requirements and to all other applicable requirements of this Chapter:

A. *Zoning Requirements.* All individual mobile homes located in a mobile home park shall comply with the minimum lot size, set back, area, density and other requirements of any zoning ordinance adopted by the Borough.

B. *Landscaped Buffer Areas.* Except where affected by access roads or other functional design reasons the subdivider of all mobile home parks shall provide for the development and maintenance of a landscaped buffer area at least 10 feet in width (in addition to any required yards) along all property boundary lines consisting of fences and/or appropriate trees and/or other suitable natural plant materials. The construction of any buildings or accessory structures shall not be permitted within this buffer area. A planting plan specifying the type, size, and location of existing and proposed plant and fence material shall be required.

C. *Size and Location of Mobile Home Parks.*

(1) All mobile home parks shall have a minimum overall tract area of 10 acres.

(2) There shall be a minimum distance of 25 feet between an individual mobile home and the adjoining mobile home. There shall be a 15-foot minimum setback distance between any part of a mobile home and the adjoining pavement of any other mobile home, park street, or other common area.

D. *Foundation Anchors and Enclosures.*

(1) An adequate number of foundation anchors for the placement and tie-down of each mobile home shall be provided for the purpose of stabilizing the superstructure against uplift, sliding, rotation, and overturning. Foundation anchors shall be adequately designed and installed to provide adequate tie-down as required above. Anchors shall be positioned at random distances as required for tie-down purposes.

(2) All mobile home parks shall provide for the enclosure of the foundation area on which the mobile home unit is situated. Enclosures shall be installed within a minimum of 180 days after placement of a mobile home unit.

E. *Off-Street Parking.* At least two off-street parking places shall be provided for each mobile home.

F. *Required Improvements.*

(1) All mobile home parks shall comply with the required improvements set forth in Part 5 and shall conform with the design standards set forth in Part 3.

(2) All mobile home parks shall be served with adequate streets, sewer, water, and other facilities and shall meet all the requirements of this Chapter for residential subdivisions and land developments.

G. *Other Utility Requirements.*

(1) Each mobile home lot shall be provided with a suitable method for connecting the mobile home sewage drain outlet to the sewer line. Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall be encased in a waterproof catch basin.

(2) Each mobile home lot shall have a water riser pipe which connects the mobile home water system to the central water system.

(3) All fuel storage tanks shall be constructed in accordance with appropriate State agency and fire code regulations.

H. *Special Design Features.* The Borough will give special consideration to any unique design features required or provided by the mobile home park, which improves the function safety, appearance, landscaping, and usability of the park for its residents, including such factors as:

(1) Lots laid out at an angle to streets to facilitate the movement of mobile homes.

(2) One-way streets.

(3) Design to facilitate vehicular circulation and vehicular access to each lot.

(4) Common vehicle parking areas.

(5) Provision of common recreation, open space, or service facilities required to meet the needs of the mobile home park.

(6) Provision of adequate and secure storage space and buildings to service the mobile home park.

(Ord. 97-2, 2/26/1997, §4.100)

Part 5

Required Improvements

§22-501. Application.

The minimum improvements required for all subdivisions and land developments which shall be provided and installed by the subdivider as a condition for final approval of any plan shall be set forth in this Section. Alternate improvement standards may be permitted if the Borough Council deems them equal or superior in performance characteristics to any specified improvements. All improvements are subject to the review and inspection by the Borough. Additional or higher type improvements may be required in specific cases where the Borough Council finds them to be necessary to create a condition essential to the public health, safety, and general welfare of the citizens of the Borough.

(Ord. 97-2, 2/26/1997, §5.100)

§22-502. Summary of Required Improvements.

Minimum improvements to be required of the subdivider, where applicable, are set forth in Table 22-II below. Additional improvements may be required in accordance with other adopted ordinances or regulations, or where required by the specific plan submitted by the subdivider.

**Table 22-II
Required Improvements to be Provided**

Type of Improvement Required	In All Areas
Improved streets	x
Adequate drainage, curbs, and/or storm sewers	x
Sidewalks	x
Monuments and markers	x
Street name signs	x
Street lighting	x
Fire hydrants	x
Electric and telephone	x
Shade trees	x
Central water and sewer	x

Note: "x" indicates that the improvement is required.

(Ord. 97-2, 2/26/1997, §5.200)

§22-503. Required Improvements Details.

1. All required improvements shall be constructed in accordance with the requirements of this Chapter and with Appendix 22-A attached to this Chapter. Said Appendix 22-A is entitled "Specifications for Required Subdivision and Land Development Improvements." Said Appendix 22-A may be amended from time to time by ordinance or by a separate resolution adopted at a legally convened meeting of the Borough Council after publication of a notice of intent to adopt such an amendment.

2. The design of all required improvements shall be reviewed by qualified Borough staff and/or the Borough Engineer and said review shall include a determination that all improvements have been designed in accordance with the design standards set forth in Part 3 and with Appendix 22-A and with other applicable Borough requirements and shall be consistent with sound engineering and construction practices.

(Ord. 97-2, 2/26/1997, §5.300)

§22-504. Environmentally Sensitive Areas.

1. Environmentally sensitive, including the following:

- A. Areas subject to flooding.
- B. Wetland areas.
- C. Groundwater aquifers and recharge areas.
- D. Rivers, streams, ponds, and lakes.
- E. Steep slopes.
- F. Stormwater runoff control.
- G. Other adverse conditions.

2. All such areas shall be subject to requirements of §27-502 of the Zoning Ordinance [Chapter 27] of the Borough of Nesquehoning.

(Ord. 97-2, 2/26/1997, §5.400)

Part 6**Plan Requirements****§22-601. Application.**

All sketch, preliminary, and final plans submitted for approval or review shall meet the requirements outlined in the following Sections.

(*Ord. 97-2, 2/26/1997, §6.100*)

§22-602. Plans.

All plans submitted shall comply with the following:

A. *Plan Information.* All plans shall contain the following information:

- (1) Name of record owner.
- (2) Name of subdivider or developer if different than owner.
- (3) Name of proposed subdivision.
- (4) Tract boundaries.
- (5) Name of municipality(ies) in which subdivision is located.
- (6) Borough boundary lines if appropriate.
- (7) Proposed and existing street and lot layout.
- (8) North point.
- (9) Graphic scale.
- (10) Date of submission.
- (11) Name of designer, registered engineer, surveyor, or planner responsible for plan. All plans must be sealed by a professional engineer and/or surveyor in accordance with State law requirements. (Optional for sketch plan.)
- (12) Names of adjoining owners or subdivisions of all properties abutting the proposed subdivision.
- (13) All existing water courses, streams, ponds, lakes, etc.
- (14) Existing development, including streets and buildings, and natural features within 500 feet of the proposed subdivision.
- (15) Wetlands, swampy areas, springs, areas subject to annual flooding, and the boundary of any 100-year floodplain. [*Ord. 2013-1*]

B. *Plan Presentation.* All plans shall be presented as follows:

- (1) Clear, legible, white print.
- (2) On, sheets 18 inches by 24 inches or 24 inches by 36 inches (on as many sheets as necessary).
- (3) Plans shall be free of any data or graphics along the edges of each sheet to provide a border of at least 2 inches along one short edge, either the top or the left side, and a border of at least 1 inch along the remaining three sides.

(4) Drawn to scale.

(5) The scale shall not be smaller than 1 inch equals 100 feet, except for sketch plans.

(Ord. 97-2, 2/26/1997, §6.200; as amended by Ord. 2013-1, 6/26/2013)

§22-603. Sketch Plan.

1. *Purpose of Sketch Plan.* A subdivision sketch plan shall be submitted by the developer as a basis for informal discussion with the Planning Commission and the Borough Council. Submission of sketch plans are optional and do not require formal approval by the Borough.

2. *Plan Information.*

A. Data furnished in a sketch plan shall include the following information in addition to that required in §22-602:

(1) Wetlands, swampy areas, springs, areas subject to annual flooding, and the boundary of any 100-year floodplain.

(2) Areas of rock outcropping.

(3) Areas of “stone” fields.

(4) Other significant topographical and physical features.

(5) Topographic information transferred from USGS maps.

(6) The use to which various areas will be put (e.g., residential, commercial, industrial, recreation).

(7) The location of any historic sites or trails. This could include the old Gravity Railroad line, historic stage coach line, structures or remnants of structures including those related to mining operations that occurred 50 years or more in the past.

B. The applicant shall use any existing Borough of Nesquehoning maps that depict these trails or sites. The applicant is responsible for requesting those Borough map(s) from the Borough Subdivision Officer. The applicant may do original research to identify any additional sites or trails.

3. *Other Sketch Plan Requirements.*

A. A subdivision sketch plan must be to scale but precise dimensions are not required.

B. A sketch to an appropriate scale, on one sheet, shall be submitted covering the entire tract within which the subdivision is situated, showing that adequate and well-designed road extensions can be provided throughout the entire tract and to adjoining tracts, considering the various design standards listed in Part 3.

(Ord. 97-2, 2/26/1997, §6.300)

§22-604. Preliminary Plan.

1. *Purpose of Preliminary Plan.* A preliminary plan is a tentative plan, in lesser detail than a final plan, showing proposed streets and street grades, and lot layouts and the information required below for the purpose of securing Borough approval on which the preparation of the final plan can be based.

2. *Plan Information.* The preliminary plan shall show or to be accompanied by following information in addition to that required in §22-602 and shall also include the information required for the sketch plan in §22-603.2.

- A. Total acreage of the tract and subdivision.
- B. Number of lots proposed.
- C. Length of new street proposed.
- D. Type of public or central water supply and sewage disposal facilities proposed.

E. Zoning requirements and proof of any variance, special exception, or conditional use which may have been granted.

F. A location map for the purpose of locating the site to be subdivided at a scale of not less than 1 inch to 2,000 feet showing the relation of the tract to adjoining property and to all streets, roads, and Borough boundaries existing within 4,000 feet of any part of the property proposed to be subdivided. The location map should also show the location of the Gravity Railroad line and any historic sites, stage coach trails, or other trails within 4,000 feet of any property proposed to be subdivided. The source of information for the historic sites or trails shall be from a Borough of Nesquehoning map available upon request from the Borough Subdivision Officer.

G. Contours at vertical intervals not more than 5 feet. The Borough may waive this requirement if the nature of the subdivision proposal does not require contours at greater accuracy than those transferred from the USGS maps.

H. Tract boundaries showing bearings and distances.

I. All contours and elevation points within the subdivision tract shall be established and run direct from U.S. Coast and Geodetic Bench Marks with said datum fixed on permanent monuments in the subdivision. The preliminary and final plans shall contain a full and complete description of all such bench marks and their elevations above mean sea level. In the event U.S. Coast and Geodetic Bench Marks are not readily available, a beginning bench mark will be established from USGS Map Quadrangles and noted on the plan.

J. The location and dimension of any street or easement which abuts the land to be subdivided.

K. All existing tree masses and other significant natural features, such as rock outcroppings, springs, swampy areas, wetlands, and areas subject to annual flooding and the 100-year floodplain, current and prior mining (deep and surface) areas.

L. All existing building, sewer systems, water systems, bridges, petroleum products lines, gas lines, electric power lines, and other significant man-made features within 500 feet of the tract.

M. All existing streets on, adjacent to, or within 500 feet of any part of the tract, including name, right-of-way width and cartway width. If an historic site, the Gravity Railroad or other significant trail are on or adjacent to the tract, then that pathway or property requested to be shown as a proposed easement with a minimum of 30-foot width for pathways.

N. All existing property lines, easements, and rights-of-way, and the purpose for which the easements or rights-of-way have been established.

O. The location and width of any street or other public way or place shown upon any adopted or official Borough or Carbon County Planning Commission Plan, if applicable.

P. The full plan of the development, showing the location and width of all proposed streets, roads, alleys, utility rights-of-way and easements, parks, playgrounds, lakes, ponds, or other bodies of water, and other public buildings and areas; suggested street names; proposed lot lines and approximate dimensions of lots; lot numbers in consecutive order; driveway access points on corner lot where proposed; proposed minimum setback for each street; and all streets and other areas designated for appurtenant facilities, public use, or proposed to be dedicated or reserved for future public use, together with conditions of such dedications or reservations.

Q. A plan for surface drainage of the tract to be subdivided as required by Part 5 and Appendix 22-A, to include all existing or proposed water courses, lakes, swampy areas subject to periodic floodings, the location and results of percolation tests; rock outcroppings, and stone fields. Plans for dams, lakes, or alteration of watercourses shall meet the requirements of the Pennsylvania Department of Environmental Protection (DEP).

R. Typical cross-sections and other center line profiles for proposed streets as shown on the preliminary plan. These plans may be submitted as separate sheets.

S. Preliminary designs of any bridges or culverts which may be required and which shall meet the requirements of DEP. These designs may be submitted as separate sheets.

T. Where the preliminary plan covers only a part of a subdivider's entire holding, a sketch shall be submitted of the new prospective street layout for the remainder. Such sketch shall be used to determine the feasibility of future street extensions and shall not be binding until a final subdivision plan for the remainder is approved.

U. Preliminary layout of utilities prepared in cooperation with the utility company to show how service can be made. A letter should accompany the plan indicating that the utility plan has been reviewed by the various utility companies involved and is considered feasible.

V. Proposed landscaping shall be indicated on the preliminary plan showing the locations for trees, if any, as required by the Borough upon advice by the Borough Planning Commission and/or other appropriate agency. Any required buffer strips shall also be indicated on the preliminary plan.

W. Copies of any proposed deed restrictions and protective and restricted covenants.

X. The latest, current, appropriate USGS Quadrangle map, or portion thereof, with the boundaries of the entire tract containing the subdivision clearly outlined to approximate scale. This map may also be used to satisfy the requirements of the location map (paragraph .F' above).

(Ord. 97-2, 2/26/1997, §6.400)

§22-605. Final Plan.

1. The final plan shall include all of the information required herein and shall satisfy all the requirements and conditions of any preliminary plan approved for the subdivision or land development. The final plan shall consist of the following:

A. The original drawing shall be in a form suitable for final approval and subsequent recording. It shall be a clear, legible, and reproducible document prepared on mylar or equivalent permanent material, with all drawings, writings and signatures thereon prepared in permanent black opaque ink. The plan shall contain the original seals of the registered professional surveyor, engineer, and/or other qualified professional responsible for the plan. The form of any required endorsement of any notary, Borough, County, or other governmental bodies, or otherwise to whom the plan has been submitted for review and/or approval, shall also be included in the plan so that these endorsements may be executed at the appropriate time after the review or approval of each agency has occurred.

B. Final plan shall be prepared on sheets not larger than 24 inches by 36 inches overall. Where necessary to avoid larger than the maximum size prescribed above, final plan shall be drawn in two or more sections, accompanied by a key diagram showing the relative location of each section.

C. Duplicate copies of the final plan shall be submitted as required in §22-203.3.

D. After the plan has received final approval from the Borough and after the Borough signature(s) denoting final approval are affixed on the plan, the applicant shall secure the signature(s) of the Planning Commission of Carbon County denoting completion of the review.

2. The final plan shall then be recorded by the subdivider/applicant in accordance with the requirements of §22-204.

3. *Plan Information.* The final plan shall show or be accompanied by the following:

A. Proposed subdivision name or identifying title; the name of the municipality(ies) within which it is situated.

B. The name and address of the owner and subdivider, and the name, license number and seal of the registered professional engineer or surveyor.

C. Date, north point, and graphic scale.

D. Total acreage and total number of lots.

E. The names of adjoining subdivisions, if any, and the book and page where recorded, and the names of all owners of all adjacent unplotted land.

F. A location map for the purpose of locating the site to be subdivided at a scale not less than 2,000 feet to 1 inch showing the relation of the property to adjoining property and to all streets, roads, and Borough boundaries within 4,000 feet of any part of the property proposed to be subdivided. (USGS Quadrangle Map may be used for this purpose.)

G. The full plan of development, including tract boundaries, street lines, lot lines, pedestrian ways, easements, and open spaces. Any limitations of the easements shall be noted on the plan. If an historic site, the Gravity Railroad

easement or other significant pathway traverses the tract or is within 100 feet of the tract, it is requested that an easement shall be depicted and labeled on the final plan.

H. Any existing public lands, all open spaces for which offers of dedication are included and all those other areas to which title is reserved by the owner.

I. Sufficient data acceptable to the Borough Engineer to determine readily the location, bearing, and length of every boundary line (a field survey to be closed with an error not to exceed 1 in 5,000 and balanced), street line and lot line, and to reproduce such lines upon the ground. All dimensions shall be shown in feet or hundredths of a foot and bearings shown to 10 seconds of an arc.

J. Lots numbered in consecutive order, and names of streets.

K. Permanent reference monuments shall be shown on the plan, and shall be constructed in accordance with specifications of Appendix 22-A.

L. A typical lot grading plan, if any, shall accompany the final plan and be part of it.

M. A landscaping plan, if any, also will be submitted which shall show the location of street trees and the treatment of buffer strips.

N. A utility plan will also be submitted showing how the utilities will be installed.

O. A drainage and stormwater drainage plan with standard construction details shall accompany the final plan and be part of it.

P. Complete street profile plans with existing ground elevations and proposed finished center line grades indicated at 50-foot stations together with all vertical curve data shall accompany the final plan and be part of it. If finished center line grades have been approved by the Borough and built by the applicant different from those proposed in the final plan, then the applicant shall provide the Borough with an as-built plan.

Q. A plan of recommended areas for locating individual wells, septic tanks, and subsurface disposal areas for the entire area to be subdivided or a plan of centralized water and sewer facilities.

R. All construction improvement standards, such as typical road sections, typical channel sections, special designs of structures, bridges and headwalls, and street index listings shall appear on the appropriate drawings.

S. Copies of any proposed deed restrictions and protective and restrictive covenants.

T. All plan sheets comprising the set of final plans shall be consecutively numbered as Sheet 1 of 2, etc.

U. The set of plans shall be neatly bound on the left or top to make the book of drawings.

V. Appropriate signature statements and blocks suitable for required endorsements shall appear on the first sheet of the set of plans. The responsible officials will sign a sheet of reproducible drawings on mylar or comparable material.

4. The final plan shall allow for the proper sequence of development of the

preliminary plan by requiring that any public improvements be developed simultaneously with the lots they serve in order to provide adequate traffic circulation, fire protection, and Borough services.

5. After Borough Council gives final plan approval, any State or Federal approval requirements that require a change in the applicant's plan shall be sent back to the Borough for review and approval. Any plan changes, whatsoever, shall be sent back to the Borough before that plan is implemented.

(Ord. 97-2, 2/26/1997, §6.500)

Part 7**Installation of Required Improvements****§22-701. Improvements to Be Provided by Subdivider.**

In all cases, the subdivider shall be responsible to pay for the cost of installation of all required improvements under supervision of the Borough and in the manner specified by the Borough and in accordance with §§509 and 510 of the Pennsylvania Municipalities Planning Code, Act No. 247 of 1968, as amended by Act 170 of 1988, 53 P.S. §§10509, 10510, and as further amended.

(*Ord. 97-2, 2/26/1997, §7.100*)

§22-702. Method of Providing Improvements.

No final plan shall be approved by the Borough Council until provision has been made by the subdivider for the proper installation of required improvements in either of the following ways, in accordance with the requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

A. Construction of Improvements.

(1) The subdivider may elect to physically install, prior to final plan approval, all of the required improvements in accordance with the standards and specifications contained in this Part and with the final plan submitted to the Borough Council; provided, that such final plan has been conditionally approved by the Borough Council subject to the construction of improvements as required herein and subject to the execution of the development agreement set forth in §22-704.

(2) Upon completion of all improvements, the Borough Engineer shall be authorized by the Borough Council to inspect said improvements and shall certify if all improvements have been installed in accordance with this Chapter. Upon receipt of such a certification, the Borough Council may then proceed to final approval of the final plan. No lots shall be sold or buildings occupied on any such development until all improvements are satisfactorily completed and final approval granted by the Borough and the final record plan has been recorded as required herein.

B. Financial Security.

(1) In lieu of paragraph .A, above, the subdivider shall deposit with the Borough sufficient financial security to secure to the public the completion of all of the required improvements within 1 year of the proposed completion date which is set forth in the subdivision plan and in the development agreement referred to below in accordance with the requirements of the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(2) Said financial security shall be provided by posting a bond with a bonding company or with a Federal or Commonwealth chartered lending institution. The amount of said financial security shall be equal to 110 percent of the cost of completion of the required improvements estimated as of 90 days

following the date scheduled for completion by the subdivider.

(3) Said estimate shall be prepared and may be revised annually as set forth in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(4) Said amount of security may be increased by an additional 10 percent for each 1-year period beyond the first anniversary date for the initial posting of the financial security.

(5) Notwithstanding the submission of said financial security as required herein, no occupied structure within the proposed subdivision and land development shall be without suitable street access improved with at least the required base, curbs, gutters, and utilities for a period of time longer than 6 months.

(6) The provision of such financial security may be made available by the subdivider in accordance with any staging plans approved by the Borough Council.

(Ord. 97-2, 2/26/1997, §7.200)

§22-703. Financial Security for Maintenance.

1. Where the Borough accepts dedication of any required improvements, the Borough Council may require the posting of financial security to secure the structural integrity and functioning of said improvements in accordance with the design and specifications approved in the final plan for a term not to exceed 18 months from the date of acceptance of dedication. Financial security for maintenance shall be posted as required by §22-702.B and the amount shall not exceed 15 percent of the actual cost of the installation of said improvements.

2. Financial security for maintenance of improvements installed under the jurisdiction and rules of a public utility or a Borough authority shall be posted in accordance with the requirements of said public utility or municipal authority or other appropriate agency and shall not be included in the financial security posted with the Borough.

(Ord. 97-2, 2/26/1997, §7.300)

§22-704. Development Agreement.

All subdividers proposing any subdivision or land development requiring the installation of improvements as required herein shall be required to enter into a legally binding development agreement with the Borough guaranteeing the installation of said improvements in accordance with this Chapter. The development agreement shall be in form suitable for execution by the Borough and it shall consist of the following where applicable:

A. The construction authorized by the approved final plan or, in the case where §22-702.A applies, in accordance with the conditionally approved final plan.

B. Construction and installation of streets, utility lines, and any other required improvements.

C. Identification of any private improvements approved as part of the final plan, including suitable and permanent measures for ensuring continuing maintenance of said improvements as required herein.

- D. Installation of underground street lighting, cable, and street lighting poles.
- E. Offer of dedication of streets, transfer of water and sewer lines and easements and other improvements which are so approved in the final plan.
- F. Prevention of erosion and water damage to adjacent property.
- G. Subdivider's responsibilities for damage to other property.
- H. The responsibility for providing necessary inspections to ensure compliance with this Chapter shall be clearly identified.
- I. A work schedule, beginning and ending date, for improvements proposed in the final plan.
- J. All planning, engineering, inspection and legal service costs incurred or to be incurred by the Borough including cost of preparing this development agreement shall be identified and that amount agreed upon for payment by the subdivider on a regular basis.
- K. Posting of the required financial security to insure completion of all of the required improvements in accordance with §22-702.B if applicable.
- L. Where the Borough agrees to accept dedication of any required improvement, posting of the required financial security may be required by the Borough to secure the structural integrity and the functioning of said improvement in accordance with §22-703.
- M. The developer shall provide the Borough with two sets of reproducible "as-built" plans, including all improvements which are properly referenced to identify specific locations.
- N. Provisions for violation of the development agreement.
- O. The subdivider shall secure or maintain public liability insurance.
- P. A save harmless clause.
- Q. Liability of subdivider during warranty period.
- R. No improvements shall be commenced or work begun prior to the execution of this agreement, and the delivery of the required financial security in compliance with §22-702.B if applicable.
- S. The Borough Council may impose additional requirements to assure compliance with this Chapter and to reflect specific subdivision plan conditions.

(Ord. 97-2, 2/26/1997, §7.400)

§22-705. Release from Financial Security for Improvements.

The financial security provided by the subdivider shall be released as follows:

- A. When the subdivider has completed all of the necessary and approved improvements, he shall so notify the Borough in writing by certified or registered mail and send a copy to the Borough Engineer.
- B. Within 2 weeks of receipt of such notice, the Borough shall direct and authorize the Borough Engineer to inspect all of the improvements.
- C. The Borough Engineer shall then file a written report with the Borough Council and shall mail a copy to the subdivider by certified or registered mail within 30 days after his receipt of authorization to inspect all improvements from

the Borough. Said reports shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, with a statement of reasons for any nonapproval or rejection.

D. The Borough shall notify the subdivider in writing by certified or registered mail of its action in relation to the improvements provided.

E. If the Borough Council or the Borough Engineer fails to comply with the above time limits, all improvements will be deemed to have been approved and the subdivider shall be released from all liability pursuant to its financial security.

F. Any improvements not approved or rejected by the Borough shall be expeditiously completed by the subdivider and, upon completion, the same notification procedure as above shall be followed.

G. If any required improvement has not been installed as required by this Chapter, by the approved final plan or by the executed development agreement, then the Borough shall enforce the financial security posted by appropriate legal and equitable remedies. If the proceeds of such financial security are insufficient to pay the cost of installing or making repairs or corrections to the required improvements, the Borough may, at its option, install part of such improvements and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder.

(Ord. 97-2, 2/26/1997, §7.500)

§22-706. Release from Financial Security for Maintenance.

The financial security for maintenance shall remain in effect for a period of 18 months after acceptance of dedication by the Borough or other appropriate agency. Said release shall be effected utilizing the same notification procedures set forth in §22-705.

(Ord. 97-2, 2/26/1997, §7.600)

§22-707. Exemption for Small Subdivisions.

The provisions of this Part may be waived by the Borough Council only for the following types of subdivisions if the Borough Council determines and makes a finding in writing with the appropriate reasons set forth, that conformance to said Sections are not required to ensure the proper completion of the subdivision in accordance with the intent and objective of this Chapter.

A. Small subdivisions and/or land developments less than 10 acres in size and containing no more than five lots, and not involving the provision of any new streets, easements of access, or other required public or private improvements. Borough Council may waive the 10-acre maximum requirements set forth above provided that all of the other conditions exist.

B. A subdivision or large development which only requires the installation of a private street or other private improvement, as approved by the Borough, which improvement is not subject to future extension and where such private improvement serves less than six dwelling units.

(Ord. 97-2, 2/26/1997, §7.700)

Part 8**Definitions****§22-801. General.**

For the purpose of this Chapter, words used in the present tense include the future tense; the term “shall” is always mandatory; other terms or words used herein shall be interpreted or defined as follows:

(Ord. 97-2, 2/26/1997, §8.100)

§22-802. Specific Terms.

Access—the means by which vehicles or pedestrians obtain entrance or entry into a parcel, lot or building, or into a subdivision or land development.

A. *Easement of access*—an easement granted for use by the public for the purpose of providing vehicular and/or pedestrian access to a parcel, lot, building, subdivision or land development.

B. *Right-of-access*—the right of the public to have vehicular and/or pedestrian access over a specifically designated area, easement or property.

Agricultural purposes—

A. The use of a parcel of land primarily for one or more of the following purposes:

(1) The raising, harvesting, and selling of crops including grains, vegetables or fruits, trees and other produce, and all structures and activities customarily associated with this activity.

(2) The feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, honey bees, or of the products thereof, etc., not including household and farm pets, and all structures and activities, including the raising of livestock feed or pasturing, customarily associated with this activity.

B. A parcel of land shall not be considered to be used for agricultural purposes if the subdivision of land is also intended for use primarily as a recreational subdivision as defined herein, or for residential, commercial, or industrial purposes in which one or more of the agricultural activities listed above are undertaken as an incidental or secondary use as determined by the Borough Council.

Alley—a permanent service way providing a secondary means of access to abutting lands.

Applicant—any person who submits subdivision plans to the Borough, on behalf of the subdivider, for the purpose of obtaining approval thereof.

Block—property bounded on one side by a street, and on the other three sides by a street, railroad right-of-way, waterway, unsubdivided area, or other definite barrier.

Bona-fide bid—a bona-fide bid is a bid secured by the subdivider, from a contractor or contractors, for the purpose of verifying the estimated cost to complete the required improvement or improvements which are the responsibility of the subdivider to provide under the terms of this Chapter. Said bona-fide bid shall include all costs and activities,

as determined by the Borough Council which will provide for the completion of all of the required improvements or maintenance.

Borough—the Borough of Nesquehoning, Carbon County, Pennsylvania.

Borough Engineer—the Borough Engineer or other qualified representative, designated by the Borough in which the subdivision is located, to perform various engineering duties required by this Chapter.

Building setback line—the minimum distance from the front lot line to any building or structure to be erected on the lot.

Cartway—the portion of the entire right-of-way of a street which contains an improved travel way for vehicles, including space for shoulders and/or parking lanes.

Commission—the Planning Commission of the Borough of Nesquehoning.

County Planning Commission—see “Carbon County Planning Commission.”

Comprehensive Plan—the complete plan, or any part of a plan which may be adopted by the Borough which is designed to serve as a guide for the future development and growth of the Borough.

Council or Borough Council—the governing body of the Borough of Nesquehoning.

County—Carbon County, Pennsylvania.

Cul-de-sac—a local street having one end open to traffic and being permanently terminated by a vehicular turn-around.

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

Developer—see “subdivider.”

Easement—a limited right of use granted in private land for public or quasi-public purpose.

Engineer—a professional engineer licensed by the State of Pennsylvania.

Financial security—

A. A deposit made out to the benefit of the Borough, as determined by the Borough Council, in an amount sufficient to guarantee and cover the entire costs of any required improvement or maintenance which is the responsibility of the subdivider to provide under the terms of this Chapter but which will allow the Borough to complete said improvements or maintenance in their entirety, without any additional cost to the Borough, in the event of a default, negligence, cost overrun or inflationary increase in price or failure of any type of the subdivider to provide or complete said required improvements or maintenance.

B. Said financial security shall be approved by the Borough Council and may include irrevocable letters of credit and restrictive or escrow accounts in a Federal or Commonwealth chartered lending institution or other type of financial security acceptable to the Borough Council, and such security shall be posted with a bonding company or with a Federal or Commonwealth chartered lending institution authorized to conduct business in the Commonwealth.

Frontage—the portion of a parcel or lot which abuts a street.

A. *Double frontage*—a lot which has frontage on and access from two streets which are approximately parallel to each other.

B. *Reverse frontage lot*—a double frontage lot which extends between and which has frontage on a major street and a minor or collector street and which has access only from the minor or collector street and which has its access prohibited from the major street.

Gravity Railroad—this term includes both historic Gravity Railroad and the historic Room Run Railroad.

Land development—includes 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, 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, as defined herein, shall also be considered to be a land development.

C. Except that the following shall be excluded from the definition of land development if it only involves the following:

(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.

(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 subparagraph, 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.

Lot—a portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership use or for development.

Mobile home—a transportable, single-family dwelling constructed on a permanent foundation, intended for permanent occupancy for use by one family, contained in one unit or in two 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, except for a “travel trailer,” as defined herein.

Mobile home lot—a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

Mobile home park—any lot, parcel, or tract of land at least 10 acres in size, upon which three or more mobile homes are located for occupancy and used by persons of different families other than members of one household.

Municipality—the Borough of Nesquehoning in which a proposed subdivision or land development is located.

Official map—any map adopted by ordinance of the Borough pursuant to Article IV of the Pennsylvania Municipalities Code (Act 247 of 1968, as amended by Act 170 of 1988, 53 P.S. §10401 *et seq.*).

Plan—a map or chart, also known as a plat, indicating the subdivision or resubdivision of land which in its various stages of preparation can include the following:

A. *Sketch plan*—an informal plan indicating salient existing features of a tract and its surroundings and the general layout of the proposed subdivision to be used as a basis for informal consideration by the Borough.

B. *Preliminary plan*—a tentative plan, in lesser detail than a final plan, showing proposed streets and lot layout and such other information as required by this Chapter.

C. *Final plan*—a complete and exact plan, prepared for official recording as required by this Chapter to define property rights and proposed streets and other improvements, as required by this Chapter.

D. *Record plan*—the copy of the final plan which contains the original endorsements or approvals of the Borough and other agencies which is intended to be recorded with the County Recorder of Deeds, as required by this Chapter.

Planner—a qualified community or city planner with certification from the American Institute of Certified Planners.

Public notice—notice published once each week for 2 successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than 7 days from the date of the hearing.

Reverse frontage lot—see “frontage.”

Right-of-way—land reserved for use as a street, alley, interior walk, other means of travel, or for other public purpose.

A. *Ultimate right-of-way*—the maximum width to which an existing or proposed right-of-way may be widened in accordance with the comprehensive plan or plans of the Borough or County Planning Commission or the Pennsylvania Department of Transportation, or other appropriate official agency.

Setback or building line—the line within a property defining the required minimum distance between any structure and the adjacent right-of-way.

Sight distance—the maximum extent of unobstructed vision (in a horizontal or vertical plane) along a street from a vehicle located at any given point on the street.

Street—

A. A strip of land designed for use by the public, including the entire right-of-way intended for use as a means of vehicular and pedestrian circulation. “Street”

shall also mean and include roads, avenues, lanes, or other vehicular ways.

B. Public streets are streets offered for dedication to the Borough and accepted by the Borough to insure permanent public ownership and maintenance by the Borough.

C. Private streets are streets not offered for dedication, or not accepted by the Borough. Such streets are not normally permitted by this Chapter.

D. Classes of streets according to use, function and width shall be as designated in the Comprehensive Plan or, if not so designated, shall conform with the following:

(1) *Major or arterial street*—those streets which serve internal County movements and provide connections between traffic generators serving or anticipated to serve moderately heavy traffic volumes at a design speed of 60 miles per hour.

(2) *Collector street*—those which intercept local streets, provide access to abutting properties and serve individual neighborhoods or areas and their function is to collect and distribute traffic to the local streets and to feed traffic into the major streets. They are anticipated to serve moderate traffic volumes and shall have design speed of 45 miles per hour.

(3) *Minor or local street*—those used primarily to provide access to abutting property and to feed into the collector streets. They are anticipated to serve relatively low traffic volumes and shall have a design speed of 35 miles per hour.

(4) *Nonresidential streets*—streets designed to serve and give access to commercial, industrial, public and other nonresidential uses.

(5) *Marginal access street*—local streets, parallel and adjacent to major traffic streets, providing access to abutting properties and providing control of intersections with major streets.

Subdivider—the owner or equitable owner of a property to be subdivided, or authorized agent of the owner including, but not limited to, an individual, partnership, or corporation that undertakes a subdivision or land development or any of the activities covered by this Chapter, particularly the preparation of a subdivision plan or land development showing the layout of the land and the public and private improvements involved therein. The term “subdivider” is intended to include the terms “developer” and “applicant” even though the personnel involved in successive stages of the project may vary.

Subdivision—the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, petition 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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

A. *Subdivision, major*—a division of any part, parcel or area of land which does not fall within the category of a minor subdivision as defined below.

B. *Subdivision, minor*—a division of any part, parcel, or area of land which

complies with the following:

- (1) Contains not more than five lots.
- (2) Involves no new road or street or easements of access other than private driveway(s).
- (3) Involves no installation of other required public or private improvements.
- (4) Total tract size is less than 10 acres.
- (5) Is consistent with any Borough Comprehensive Plan, Official Map, or Zoning Ordinance [Chapter 27] which may apply, and with all provisions of this Chapter.

Subdivision Officer—the specific person designated by the Borough Council to perform all of the administrative duties required by this Chapter.

Surveyor—a professional surveyor licensed by the State of Pennsylvania.

Travel trailer—a vehicle, less than 36 feet in length, standing on wheels, and containing not more than one dwelling unit which may be used for temporary living or sleeping purposes, and not intended for occupancy for more than 100 days during any 1 year.

Undeveloped land—land in parcels sufficiently large for future subdivision which is presently in agriculture or woodland.

(Ord. 97-2, 2/26/1997, §8.200)

Part 9**Administration and Enforcement****§22-901. Administrative Action.**1. *Subdivision Officer.*

A. The Subdivision Officer of the Borough shall act as the officer of the Borough responsible for administration of this Chapter. The Subdivision Officer shall receive and examine all subdivisions and land developments in the name of the Borough and shall refer copies of all such plans and applications to appropriate agencies or officials involved.

B. The Subdivision Officer shall also receive information from such agencies or officials and shall transmit these comments to the Planning Commission and the Borough Council. The Subdivision Officer shall keep records of all applications and plans and of actions taken by the Borough on such applications and plans. The Borough Engineer, or other designated Borough staff, at the request of the Subdivision Officer, shall make all required inspections called for in this Chapter. The Subdivision Officer shall also inform the subdivider and the Borough of any violations of this Chapter which shall become known to him.

C. The Borough Council shall designate the specific person, or any member of the Borough Planning Commission, to serve as the Subdivision Officer. Said Subdivision Officer may be any person qualified to carry out the duties set forth herein.

2. *Borough Planning Commission.*

A. The Borough Planning Commission shall be the responsible agency of the Borough to review all plans to identify compliance and noncompliance with the requirements of this Chapter in accordance with the plan submission procedures set forth in Part 2.

B. The Commission shall also classify all plans as minor subdivisions, as major subdivisions, or land developments as defined herein.

C. Upon completion of its review, the Commission shall prepare a letter or report for submittal to the Borough Council setting forth its findings and recommendations for approval, approval with conditions, or disapproval of the plan, together with reasons explaining the recommended action. Said report shall only be advisory and final action shall be the responsibility of the Borough Council.

(1) *Other Duties.* The Commission may make all necessary contacts to secure information on any plan, and make inspections of the proposed area to be subdivided, keep records of all actions taken, attend public hearings scheduled by the Borough Council and assist the Borough Council in all plan reviews.

3. *Borough Council.*

A. The Borough Council, with the assistance of the Subdivision Officer, and the Borough Planning Commission, as set forth above and in Part 2, and any other agency or professional designated by the Borough Council shall review all

subdivision plans and land developments to determine conformity with this Chapter, may hold necessary public hearings, and shall approve, approve with conditions or disapprove all plans for subdivisions and land developments after receiving the findings and/or recommendations of the Planning Commission.

B. The Borough Council also shall grant any necessary modifications, variances or waivers as set forth in §22-902 and shall perform all other duties required under this Chapter.

C. After approval of any final plan, the Borough Council shall direct the Subdivision Officer to take any necessary action relative to the making of arrangements for acceptance of dedication by the Borough of any public right-of-way area(s) shown on the plan and also action relative to the execution of the development agreement with the subdivider.

4. *Endorsement of Record Plan.* Upon approval of any final plan by Borough Council, the President of the Borough Council or the Borough Manager, and the Chairperson of the Planning Commission and the Borough Secretary shall endorse the required number of copies of the record plan, as required in §22-204. The Carbon County Planning Commission may then endorse the record plan indicating the completion of its review of the plan.

5. *Subdivision Records.* The Subdivision Officer shall keep a record of the findings, decisions, and recommendations relative to all subdivision plans and applications filed for approval. Such records shall be open to the public for review.

(Ord. 97-2, 2/26/1997, §9.100)

§22-902. Modifications, Appeals and Amendments.

1. *Modifications.* The Borough Council may grant the following modifications and variances subject to such conditions which will, in their judgment, secure substantially the objectives of the standards or requirements which are so varied or modified.

A. *Modification Due to Exceptional Conditions.* The Borough Council may grant a modification to the provisions contained herein for reason of the size or exceptional shape of a specific piece of property, or of exceptional topographic conditions, or when the strict application of this Chapter would result in extreme practical difficulties and undue hardship upon the owner of such property; provided, however, that such relief may only be granted without detriment to the public good and without substantially impairing the intent and purposes of this Chapter.

B. *Modification to Permit Large Scale or Planned Unit Developments.* The standards and requirements of this Chapter may be modified by the Borough Council in the case of plans for complete communities or neighborhood units or other large scale developments or planned residential or unit developments which comply with any zoning ordinance adopted by the Borough and which, in the judgment of the Borough Council, achieve substantially the objectives of the regulations contained herein, and which are further protected by such covenants or other legal provisions as will assure conformity to and achievement of the plan.

C. *Requests for Modifications.* All requests for modifications shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship

on which the request is based, the provision or provisions of this Chapter involved and the minimum modification necessary. The Borough Council shall keep a written record of all action on all requests for modifications.

2. *Reconsideration and Appeals to Borough Council.* Any subdivider/applicant aggrieved by a finding, decision or recommendation of Borough Council or of the Borough Planning Commission may request and receive opportunity to appear before the Borough Council, present additional relevant information, and request reconsideration and/or appeal of the original finding, decision, or recommendation.

3. *Procedure for Applying.* Applications for modification, variances, and appeals to the Borough Council shall be submitted in writing. The application shall state fully the grounds and all the facts relied upon by the applicant. The Borough Council shall act upon such application within a period of 45 days.

4. *Appeals to Court.* The decisions of the Borough Council with respect to the approval or disapproval of plans may be appealed directly to court as provided for in Pennsylvania Act 247, as amended, the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

5. *Revision and Amendment.* The Borough Council may, from time to time, amend this Chapter by appropriate action taken after a public hearing on said proposed revisions. Public notice shall be given of the date, time, and place of such public hearings together with a brief summary setting forth the principal provisions of such amendments, and indicating the place and time where copies of the proposed amendments may be examined. All proposed amendments shall be submitted to the Borough Planning Commission and to the Carbon County Planning Commission for review at least 30 days prior to the date fixed for the public hearing on such amendment.

(Ord. 97-2, 2/26/1997, §9.200)

§22-903. Preventative Remedies.

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

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

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

time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.

D. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of 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 Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

(Ord. 97-2, 2/26/1997, §9.300)

§22-904. Enforcement Remedies.

1. Any person, partnership, or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under this Chapter or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. [Ord. 2013-1]

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

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

(Ord. 97-2, 2/26/1997, §9.400; as amended by Ord. 2013-1, 6/26/2013)

§22-905. Conflict and Validity.

1. *Validity.* If any Section, clause, provision, or portion of this Chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other Section, clause, provision, or portion of this Chapter.

2. *Hold Harmless Clause.* Any approval granted by the Borough Council under this Chapter does not relieve the subdivider of the legal responsibility for meeting all other legal requirements under local, Commonwealth, and Federal law, and said subdivider shall be responsible for providing a safe, environmentally sound, and properly constructed subdivision which does not adversely affect the public health,

safety, or welfare. All aggrieved persons, firms, or corporations may take appropriate legal remedies against the subdivider in the event of any failure on the part of the subdivider. The Borough of Nesquehoning, the Borough Council and all officials of the Borough, including all employees or consultants of the Borough are hereby held harmless in the event of any failure on the part of the subdivider.

(Ord. 97-2, 2/26/1997, §9.500)

Appendix 22-A

Specifications for Required Subdivision and Land Development Improvements

WHERE the following improvements are required in any specific subdivision or land development the Subdivider shall comply with the following minimum requirements. Alternate improvement requirements may be permitted by the Borough if they are deemed to be equal or superior in performance and/or maintenance characteristics as determined by the Borough Council.

WHERE the requirements set forth below are in conflict with the requirements of this Chapter then the higher standard, as determined by Borough Council, shall apply.

The design of all required improvements shall be reviewed by qualified Borough Council staff and/or the Borough Engineer and said review shall include a determination that all improvements have been designed in accordance with the design standards and other requirements of this Chapter and with these specifications and that they are consistent with sound engineering and construction practices.

1. *General Improvements.* General improvement requirements shall be as follows:

A. *Street Improvements.*

(1) All streets shall be constructed to conform with the PennDOT RC Construction Standards and Specifications, Publication 408.

(2) The developer shall improve and dedicate at his expense all perimeter streets of the subdivision. Frontage roads and streets shall be improved and dedicated by the developer at his expense to the full width as required by these subdivision regulations.

(3) The following pavement types should be utilized for all streets:

(a) *Marginal Access Streets.* One inch of bituminous wearing course ID-2, on 2 inches of bituminous binder course ID-2, on 4 inches of subbase constructed on a stable subgrade.

(b) *Local or Minor Streets.* One and one-half inch of bituminous wearing course ID-2, on 3 inches of bituminous concrete base course, on 6 inches of subbase constructed on a stable subgrade.

(c) *Collector and Nonresidential Streets.* One and one-half inch of bituminous wearing course ID-2, on 6 inches of bituminous concrete base course, on 8 inches of subbase constructed on a stable subgrade.

(d) *Major or Arterial Streets.* In accordance with PennDOT Design Standards for the design traffic.

B. *Drainage Improvements.*

(1) The developer shall be required by the Borough Council to carry away by pipe or open ditch, any spring or surface water that may exist either previously to, or as a result of, the subdivision. Such drainage facilities shall be located in the road rights-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the current PennDOT RC Construction Standards and Specifications, Publication 408.

(2) A culvert or other drainage facility shall, in each case, be large enough

to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The subdivision and/or land development design engineer shall determine the necessary size of facility, based on acceptable engineering methods and this design shall be reviewed by the Borough Engineer.

(3) The Borough Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. The County Watershed Drainage Study, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Borough Council may withhold approval of the subdivision until provision has been made for the improvement of said potential condition or, in the alternative, the developer may deposit in escrow the full cost of the required improvement of the said potential condition in such sum as the Borough Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse.

C. *Other Improvements.*

(1) *Street Signs.* The subdivider shall deposit with the Borough at the time of final subdivision approval the sum in an amount as established from time to time by resolution of Borough Council for each street sign required by the Borough Council and Borough Engineer at all road intersections. The Borough shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved. [Ord. 2013-1]

(2) *Street Lighting Standards.* Where required by the Borough Council, street lighting standards of a design conforming to the Borough's construction standards and specifications shall be placed in a manner and location approved by the Borough Engineer. In the case of a subdivision involving a State highway, approval shall be obtained from PennDOT for a highway occupancy permit.

(3) *Shade Trees.* The subdivider shall deposit with the Borough at the time of final subdivision approval the sum in an amount as established from time to time by resolution of Borough Council for each tree required by the Borough Council of the Borough of Nesquehoning as shown on the preliminary and final subdivision plat. The trees shall be planted by the Borough within the shade tree easement hereinafter specified, subsequent to dedication of the streets shown in the subdivision. [Ord. 2013-1]

(4) *Sanitary Sewer Facilities.* The subdivider shall install sanitary sewer facilities in a manner prescribed by the Borough construction standards and specifications. The developer shall be required to extend the Borough sewer main to provide sanitary sewer service to the proposed development.

(5) *Fire Hydrants and Water Supply Districts.*

(a) The developer shall be required to extend the water service from the Water Authority system. The extended water system shall be designed to provide adequate flow and pressure for fire protection. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, shall be installed before any final paving of a street shown on the subdivision plat.

(b) To facilitate the above, the location of all fire hydrants shall be shown on the preliminary plat, and the cost of the installing same shall be included in the performance bond to be furnished by the developer.

D. *Underground Utilities.* All utility facilities shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Borough Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

2. *Specific Improvements.* Specific improvements shall comply with all other applicable requirements of this Chapter, including the design standards set forth in Part 3 of said Chapter, and also with the following specifications set forth below:

A. *Streets.*

(1) All required streets in the Borough shall be consistent with Part 3 of this Chapter, as it may be amended setting forth rules, regulations, and design standards with respect to street improvements.

(2) Where the above standards do not govern all of the street improvements required then PennDOT Standards contained in their publication entitled "Guide Lines for Design of Local Roads and Streets-Publication 70-Urban Design Criteria," as it may be amended shall apply.

(3) Construction standards shall comply with the latest version of PennDOT's Form 408 Specifications, or its successor publication, or as otherwise required by PennDOT for a State road.

(4) All streets shall be graded, improved and surfaced to the grades and dimensions shown on the plans, profiles, and cross-sections submitted by the applicant, as approved by the Borough.

(5) Positive drainage, including the need to construct storm drainage systems shall be approved by the Borough Engineer, and with §2.J of this Appendix 22-A.

B. *Curbs.* Curbs shall be provided along both sides of all streets and shall comply with PennDOT curb specifications or the following specifications:

(1) Only straight curbs shall be provided. Such curbs shall be of Portland cement concrete and be 24 inches deep, 6 inches wide at the top, 8 inches wide at the bottom and have an exposed face between 6 and 8 inches. Such concrete shall meet the minimum 3,000 PSI 28-day strength test according to ASTM standards.

(2) Expansion joints shall be provided a minimum of every 30 feet. Each expansion joint shall contain 0.5 inch premolded bituminous expansion joint materials. Contraction joints shall be provided a minimum of every 10 feet.

(3) Gutter design, if deemed appropriate by Borough Council, shall be subject to the approval of the Borough Engineer based upon standard engineering practices.

If curbs are waived, appropriate stabilized drainage channels designed to

handle a 25-year storm shall be required along all streets, within the street right-of-way, or drainage easement.

C. *Sidewalks and Crosswalks.*

(1) Sidewalks shall be located within the street right-of-way, or an easement designated for that purpose, and shall not be closer than 1 foot from the right-of-way or easement line, nor closer than 3 feet from any curb or shoulder line.

(2) Sidewalks and crosswalks shall be a minimum of 42 inches wide and shall be constructed of concrete 4 inches thick in residential areas and 6 inches thick in commercial and industrial areas, placed on a suitable subbase. Sidewalks at driveway crossings shall be at least 6 inches thick.

(3) All sidewalks shall be designed in accordance with established engineering practice and subject to the approval of the Borough Council after review by the Borough Engineer.

D. *Monuments and Markers.*

(1) Monuments shall be of concrete or stone with a minimum size of 6 inches by 6 inches by 36 inches, and shall be marked on top with ½-inch round brass pin, or a drilled hole. Markers shall consist of iron pipes or iron or steel bars at least 24 inches long, and not less than ¾-inch in diameter.

(2) Monuments and markers shall be permanently located and placed so that the scored or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the surface of the surrounding ground and the elevation permanently recorded on at least one monument.

(3) Monuments shall be set in readily accessible locations at all corners and angle points of the boundary of the original tract being subdivided and at a minimum of two points of intersection of the right-of-way lines at all street intersections so as to permanently locate or provide reference for all property lines.

(4) *Markers.* All markers shall consist of a metal pin or pipe, at least ¾-inch in diameter, with a minimum length of 20 inches and shall be set as follows:

(a) At the beginning and ending of all curves along street property lines.

(b) At all points where lot lines intersect curves, either front or rear.

(c) At all angles in property lines of lots.

(d) At all other lot corners.

(5) Any monuments or markers that are removed shall be replaced by a professional engineer at the expense of the person removing them.

E. *Street Name Signs.* Street name signs shall be provided at the intersections of all streets. The style, color, size, and lettering of all signs shall be subject to review and approval of the Borough Council.

F. *Street Lighting.*

(1) Street lights shall be installed with underground lines wherever possible and the subdivider shall provide or make arrangements for a complete

energy efficient street lighting system within the subdivision. Such systems shall provide a safe level of illumination and shall be reviewed by the appropriate utility company and approved by the Borough Council.

(2) All street lights shall comply with the lamp and wiring standards established by the electric utility company. The applicant shall enter into an agreement with the utility company for the proper installation and financing of the proposed lights.

(3) The applicant/developer shall be responsible for the installation and maintenance of street lights located in private off-street parking areas.

G. *Fire Hydrants.* Fire hydrants shall be provided in accordance with the requirements of the principal applicable fire company that serves the proposed subdivision.

H. *Electric and Telephone.* Such utilities shall be installed underground where possible, in accordance with the requirements of the appropriate utility companies, subject to approval by the Borough Council.

I. *Central Water and Sewer Facilities.* All such facilities shall be connected into the existing water distribution and sewage collection systems. Central sewer or water facilities shall also be subject to the technical specifications of the Borough and/or any applicable Borough Authority, or utility company.

J. *Design Standards for Drainage and Stormwater Management.* Required storm drainage improvements shall be based on the design principles contained in this Chapter and on sound engineering practices, shall comply with any officially adopted Stormwater Management Plan for the Borough, and with the requirements set forth below:

(1) *General Design Recommendations.*

(a) In the interest of 1) reducing the total area of impervious surface, 2) preserving existing features which are critical to stormwater management, and 3) reducing the concentration of stormwater flow, the designer should consider alternate design concepts and the design flexibility provided by the waiver process.

(b) Maximum use should be made of the existing on-site natural and manmade stormwater management facilities.

(c) Innovative stormwater management and recharge facilities may be proposed (e.g., rooftop storage, parking lot ponding, recreation area ponding, diversion structures, aeration of lawns, porous pavements, holding tanks, infiltration systems, stream channel storage, in-line storage in storm sewers, and grading patterns), provided they are accompanied by detailed engineering plans and performance capabilities.

(2) *Design Standards.* The standards contained in this Section shall apply as minimum design standards; however, Federal, State, and local regulations may impose additional standards subject to their jurisdiction.

(a) All projects shall be designed as “provisional no detention areas” and stormwater detention shall not be required unless it is needed to resolve a localized drainage problem to assure that all runoff flows to the Lehigh River or Delaware River Basin without creating local drainage problems as determined by the Borough Engineer.

The design plan and construction schedule shall incorporate measures

to minimize soil erosion and sedimentation.

Runoff calculations for the post-development and pre-development comparison shall use the 2-year, 10-year, 25-year, or 100-year frequency storm event.

(b) The design of stormwater management collection and conveyance facilities shall be based on a 25-year frequency storm event, except where located in floodplain areas where a 100-year design storm is to be used.

(c) Runoff calculations shall be based upon the USDA Soil Conservation Service Soil-Cover-Complex Method or on the Rational Formula of $Q = CIA$ as determined by the Borough Engineer. If the Soil-Cover-Complex Method is used, stormwater runoff shall be based on the 24-hour storm events.

(d) Consideration shall be given to the relationship of the subject property to the drainage pattern of the watershed.

(e) Stormwater shall not be transferred from one watershed to another, unless 1) the watersheds are sub-watersheds of a common watershed which join together within the perimeter of the property, 2) the effect of the transfer does not alter the peak discharge onto adjacent lands, or 3) easements from the affected landowner are provided.

(f) A concentrated discharge of stormwater to an adjacent property shall be within an existing watercourse or enclosed in an easement or the discharge must be returned to a pre-development condition.

(g) The proposed stormwater discharge at the perimeter of the site shall not be beyond the capacity of any existing, immediately contiguous, stormwater management facility into which it flows.

(h) Retention basins and detention basins, except sediment basins, shall be designed to safely discharge the peak discharge of a post-development 100-year frequency storm event through an emergency spillway and all other outlets combined in a manner which will not damage the integrity of the basin.

(i) Retention basins and/or detention basins and water carrying facilities shall be stabilized promptly.

(j) Retention basins and/or detention basins shall be designed and maintained to insure the design capacity after sedimentation has taken place.

(k) Basins which are not designed to release all stormwater shall be specifically identified as retention basins or permanent pond basins. All other basins shall have provisions for de-watering, particularly the bottom, and shall not create swampy and/or unmaintainable conditions. Low flow channels and tile fields may be used to de-water the bottom of a basin.

(l) Retention basins and/or detention basins which are designed with earth fill dams shall incorporate the following minimum standards:

1) The height of the dam shall not exceed 15 feet, unless approved by waiver of the Borough.

2) The minimum top width of dams up to 15 feet in height shall be equal to two-thirds of the dam height, but in no case shall the top

width be less than 5 feet.

3) The side slopes of the settled earth fill shall not be less than 2½ horizontal to 1 vertical.

4) A cutoff trench of relatively impervious material shall be provided under all dams, except for those dams with side slopes of 3 horizontal to 1 vertical or flatter. The dam with flatter sides shall be provided with a key trench.

5) All pipes and culverts through dams shall have properly spaced concrete cutoff collars or factory welded anti-seep collars.

6) A minimum 1 foot freeboard above the 25-year design elevation of the water surface at the emergency spillway, and ½ foot above the 100-year design elevation of the water at the emergency spillway shall be provided.

(m) The capacities of pipes, gutters, and swales shall be calculated by the Manning Equation or any other method caliber which is acceptable to the municipality. Additionally, consideration shall also be given to all hydraulic conditions which may apply.

(n) Storm sewers shall be provided with manholes at a maximum interval of 600 feet. Manholes shall also be provided at points of abrupt changes in the horizontal direction except for pipes with at least a 36-inch diameter or height. Inlets may be substituted for manholes where they will serve a useful purpose.

(o) Curved pipes, tee joints, elbows, and wyes are prohibited except for pipes with at least a 36-inch diameter or height.

(p) The maximum velocity of stormwater runoff shall be maintained at levels which result in a stable channel both during and after channel construction. The following are characteristics of a stable channel:

1) It neither aggrades nor degrades beyond tolerable limits.

2) The channel banks do not erode to the extent that the channel cross-section is changed appreciably.

3) Excessive sediment bars do not develop.

4) Excessive erosion does not occur around culverts and bridges or elsewhere.

5) Gullies do not form or enlarge due to the entry of uncontrolled stormwater runoff.

(q) Grass lined channels shall be considered stable if the calculated velocity does not exceed the allowable velocities shown below:

1) Three feet per second where only sparse vegetation can be established and maintained because of shade or soil condition.

2) Four feet per second where normal growing conditions exist and vegetation is to be established by seeding.

3) Five feet per second where a dense, vigorous sod can be quickly established or where water can be temporarily diverted during establishment of vegetation. Netting and mulch or other equivalent methods for establishing vegetation shall be used.

- 4) Six feet per second where there exists a well established sod of good quality.

The calculated channel flows may be exceeded if the designer can provide supportive design criteria as proof of erosion prevention or an adequate erosion protection facility. Additionally, consideration shall be given to critical flow conditions within the channel.

(r) When stormwater management plans are for a portion of a larger project, a generalized stormwater management plan for the entire project shall be submitted. This generalized plan shall demonstrate how the stormwater of the proposed section will relate to the entire development. If temporary facilities are required for construction of a section, such facilities shall be included in the submitted plans. In the event temporary measures cannot adequately handle the stormwater runoff, the main outfall line shall be included as part of the construction of the proposed section.

(s) The applicant must comply with the Erosion Control Rules and Regulations of Title 25, Rules and Regulations, Part I. Department of Environmental Protection, Subpart C. Protection of Natural Resources, Article II. Water Resources, Chapter 102, Erosion Control, as amended. In addition, the following principles shall be applied to the design plan and construction schedule to minimize soil erosion and sedimentation.

- 1) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion.
- 2) Whenever feasible, natural vegetation shall be retained and protected.
- 3) The extent of the disturbed area and the duration of its exposure shall be kept to a minimum, within practical limits.
- 4) Either temporary seeding, mulching, or other suitable stabilization measures shall be used to protect exposed critical areas during construction.
- 5) Drainage provisions shall accommodate the stormwater runoff both during and after construction.
- 6) Soil erosion and sedimentation facilities shall be installed prior to any on-site grading.

K. *Other Improvements.* Other public improvements proposed in the Subdivision and Land Development Plan, which are required to ensure a safe, efficient, and well-designed plan and which are required for the efficient functioning of the proposed development may be required by Borough Council. Such improvements shall be designed in accordance with the following principles:

- (1) They shall conform with generally accepted engineering design and construction practices, as approved by Borough Council after review and recommendation from the Borough Engineer.
- (2) They shall be designed to promote the public health, safety, and welfare of the residents or users of the subdivision or land development.
- (3) They shall be designed to promote ease of maintenance and operation.

(Ord. 97-2, 2/26/1997, App. A; as amended by Ord. 2013-1, 6/26/2013)

Appendix 22-B

Subdivision and Land Development Review Fees

The Borough shall levy “review fees” to cover the reasonable and necessary costs incurred by the Borough for reviewing all applications for proposed subdivisions and land developments and for determining compliance with this Chapter, as required herein. Such fees shall be payable by the subdivider/applicant.

1. Such review fees shall include costs and expenses incurred by the Borough for the following purposes:

A. Borough administrative and technical staff employees involved in the review process.

B. Charges by the Borough’s professional consultants including, but not limited to, expert witnesses, attorneys, engineers, planners, or other required specialists for undertaking reviews, reports, field trips, and recommendations, including attendance at necessary meetings and public hearings, for the preparation of any legal or other documents required by the proposed plan and also for the inspection of improvements installed by the subdivider.

C. Fees to cover the cost of any review, report or recommendation, or application submitted to or prepared by the Carbon County Planning Commission or other appropriate agencies shall also be paid by the subdivider.

D. Fees, at cost, shall also include the cost of advertising, notices, or other expenses incurred in the processing of the proposed subdivision plan.

2. Such fees shall be based on estimates and actual time spent by Borough personnel in the review process and on estimates and actual invoices received by the Borough from its professional advisors. Such review fees shall be in accordance with the ordinary and customary charges by the Borough’s professional advisors, for similar service to the Borough and shall not exceed the rate of cost normally charged to Borough for other nonreimbursable services.

3. Review fees, payable by the subdivider or applicant, in accordance with §22-202 of this Chapter and to determine compliance with this Chapter shall be consistent with the fee schedule resolution adopted by the Nesquehoning Borough Council.

4. *Additional Review Fees.* Fees for plans which require more than one meeting and/or public hearing or special meeting shall include any of the expenses which are incurred by the Borough, including the following:

A. Expenses required to conduct more than one meeting to review and discuss the Plan.

B. Additional Borough personnel costs.

C. Cost of preparation and advertisement of necessary legal or other public notices or ads.

D. Cost of required stenographic services.

E. Cost of retention of professional advisors.

F. Cost of time, materials, travel expenses and other expenses incurred by Borough staff and consultant advisors in preparing special reports or recommendations, in providing testimony, or of field trips and inspections or other necessary

activities to complete the review of the plan.

5. *Carbon County Planning Commission Costs.*

A. Fees to secure necessary reviews by the Planning Commission of Carbon County shall be paid based on the fee schedule adopted by the Carbon County Planning Commission.

B. Except for the initial Borough application fee included in §§4.A and 4.B above, such fees shall be based on estimates, payable in advance by the subdivider or applicant to the Borough for the proposed work to be undertaken by the Borough. Such advance payments shall be later accounted for and reconciled, after receipt of actual invoices by the Borough from the parties involved.

(*Ord. 97-2, 2/26/1997, App. B*)