

***SUBDIVISION
AND
LAND DEVELOPMENT
ORDINANCE***

***BLACK CREEK TOWNSHIP,
LUZERNE COUNTY, PA***

ADOPTED: 01/03/11

PREPARED BY:

***RJD ENGINEERING, INC.*
8 WEST BROAD STREET – SUITE 700
HAZLETON, PA 18201**

AND

**THE BLACK CREEK TOWNSHIP
PLANNING COMMISSION**

**BLACK CREEK TOWNSHIP SUBDIVISION AND LAND
DEVELOPMENT ORDINANCE**

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BE IT HEREBY ORDAINED AND ENACTED by the Township Supervisors of Township of Black Creek, Luzerne County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the Pennsylvania Municipalities Planning Code, as follows:

ARTICLE I
General Provisions

SECTION 100 REPEALER AND CONFLICT

This Subdivision and Land Development Ordinance, as adopted herein and as may be duly amended by the Township Supervisors shall repeal and replace in total the Township of Black Creek Ordinance #12, Subdivision Regulations, of December 1965, as amended; provided however, that the repeal shall in no manner be construed as a waiver, release or relinquishment of the right to initiate, pursue or prosecute, as the case may be, any proceedings pertaining to any violation of the aforesaid ordinances, or any applicable predecessor ordinances and regulations; and, all provisions of the said repealed ordinances shall remain in full force and effect and are not repealed hereby as the said sections pertain to any such violation. This Ordinance is not intended to, and shall not be construed to, affect or repeal any other ordinance, code or regulation of the Township. If any other ordinance, code or regulation of the Township is in conflict or inconsistent with the requirements of this Ordinance, the most restrictive standards and provisions shall apply.

SECTION 101 TITLE AND SHORT TITLE

An Ordinance governing subdivisions and land developments within the limits of the Township of Black Creek and providing application procedures, design standards and maintenance requirements for improvements and prescribing penalties for violations. This ordinance shall be known and may be cited as the Township of Black Creek Subdivision and Land Development Ordinance.

SECTION 102

JURISDICTION

102.1 Application

This Ordinance shall apply to all subdivisions and land developments in the Township proposed after the effective date of this Ordinance.

A. No subdivision or land development of any lot, tract or parcel of land shall be made, and no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of this Ordinance.

B. No lot in a subdivision may be sold, no permit to erect or alter any building upon land in a subdivision or a land development may be issued, and no building may be erected in a subdivision or a land development, unless and until a plan of such subdivision or land development shall have been approved and properly recorded, and until the improvements required herein in connection therewith have been constructed or guaranteed as hereinafter provided.

C. No person, firm or corporation proposing to make, or have made, a subdivision or land development within the Township shall proceed with any clearing of vegetation, cutting of trees, or grading (with the exception of the required work associated with all types of soil testing and surveying activities) before obtaining from Township Supervisors the approval of the **Preliminary Plan** of the proposed development; and, no deeds shall be recorded for lots in any development, before obtaining from Township Supervisors the approval of the **Final Plan** (with no conditions) of the proposed subdivision or land development, except as otherwise provided herein. If the preliminary plan is approved with conditions no construction of site infrastructure may commence until all conditions of the preliminary approval have been met by the applicant.

D. The proposed subdivision or land development plat shall be in general accordance with the Township and County Comprehensive Plan, if such a plan exists at the time of the Subdivision / Land Development application and Community Development Objectives.

102.2 Powers

The Township shall have all powers necessary to administer the provisions of this Ordinance without limitation by reason of enumeration, including the following:

- A. To prohibit the development of any land found to be unsuitable as defined by this Ordinance.
- B. To require that improvements to the land be made as defined by this Ordinance.
- C. To require the dedication of land as defined as a condition of subdivision or land development plan approval.
- D. To require adherence to this Ordinance and its standards.
- E. To require complete and accurate preliminary and final subdivision and land development submissions and additional information necessary to make reasonable evaluations of such plans.
- F. To make conditional approvals where requirements specified, in writing, by the Township will satisfactorily protect the public interest and health and will not violate State laws and will accomplish the purpose of this Ordinance.

102.3 Recording of Plans

In accord with §513 of the Pennsylvania Municipalities Planning Code, the Recorder of Deeds of Luzerne County, PA shall not accept any subdivision or land development map or plan for recording unless such map or plan officially notes the review of all planning agencies and the approval of Township Supervisors.

SECTION 103**PURPOSE**

This Ordinance has been adopted to protect and promote the public health, safety, and general welfare of the citizens of Black Creek Township and by establishing regulations to allow for the proper and controlled development of the Township, to provide for environmental protection and to ensure the proper provision of community facilities. Regulations for specific types of development for which additional standards have been deemed necessary are intended to protect the rights of the residents of the Township to enjoy clean air, pure water, and the natural, scenic, historic, and aesthetic value of the environment and, in particular, to preserve and conserve the rural and natural features of the Township. The basic tenet of Subdivision and Land Development in the Township is to base design on land capability by encouraging flexibility of design via the conservation subdivision design process. Each development is based on the existing resources and site analysis plan and the four-step design process required by this Ordinance. This will provide larger areas of open space within subdivisions and result in interconnected open space areas throughout the Township.

SECTION 104**INTERPRETATION**

In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of the Township and its citizens. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances of the Township except that where this Ordinance imposes a more stringent or greater requirement on the development of land or structure, or requires larger open spaces than are imposed by such other rules, regulations, or ordinances, the provisions of this Ordinance shall control.

SECTION 105**EFFECT OF ORDINANCE CHANGES**

Changes in this Ordinance shall affect plats as follows:

105.1 Pending Action

From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in this Ordinance, and while such application is pending approval or disapproval, no change or amendment to the Township subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the Applicant and the Applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary

application has been duly approved, the Applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.

105.2 Project Completion and Effect of Litigation

When an application for approval of a plat, whether preliminary or final, has been approved under the terms of this Ordinance without conditions or approved by the Applicant's acceptance of conditions, no subsequent change or amendment to the subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the Applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval. The five-year period shall be extended for the duration of any litigation, including appeals, which prevent the commencement or completion of the development, and for the duration of any sewer or utility moratorium or prohibition that was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five-year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration have expired. Provided, however, that no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

105.3 Five Year Initiation

Where final approval is preceded by preliminary approval, the aforesaid five (5) year period shall be counted from the date of the preliminary approval. In the case of any doubt 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 for such approval was duly filed.

105.4 Substantially Completed Improvements

Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five (5) year limit, or any extension thereof as may be granted by Township Supervisors, no change to a Township ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to density, lot, building, street or utility location.

105.5 More Than Five Years

In the case of a preliminary plat calling for the installation of improvements beyond the five (5) year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the Applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of Township Supervisors in its discretion.

105.6 Sections

Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of twenty-five (25) percent of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by Township Supervisors in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five (5) years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five (5) year period the aforesaid protections shall apply for an additional term or terms of three (3) years from the date of final plat approval for each section.

105.7 Landowner Failure

Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes to subdivision or other governing ordinance or plan enacted by the Township subsequent to the date of the initial preliminary plan submission.

ARTICLE II

Definition of Terms

SECTION 200 TENSE, GENDER AND NUMBER

Words in the present tense include the future tense; words used in the masculine gender include the feminine and the neuter; words in the singular include the plural and those in the plural include the singular.

SECTION 201 GENERAL TERMS

A. The words *applicant, developer, person, subdivider* and *owner* include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual.

B. The word *street* includes thoroughfare, avenue, boulevard, court, expressway, highway, lane, arterial, and road.

C. The word *building* includes structures and shall be construed as if followed by the phrase or part thereof.

D. The term *occupied* or *used* as applied to any building shall be construed as though followed by the words or intended, arranged, or designed to be occupied or used.

E. The word *lot* includes plot, parcel, tract, site, or any other similar term.

F. The word *watercourse* includes *channel, creek, ditch, drain, dry run, river, spring,* and *stream*.

G. The word *abut* includes *directly across from*.

H. The words *should* and *may* are permissive.

I. The words *must, shall,* and *will* are mandatory and directive.

SECTION 202 TERMS OR WORDS NOT DEFINED

When terms, phrases, or words are not defined, they shall have the meaning as defined in The Latest Illustrated Book of Development Definitions (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

SECTION 203 SPECIFIC TERMS

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

ACCESSORY USE OR STRUCTURE - A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A portion of a principal building used for an accessory use shall not be considered an accessory structure.

ADD-ON SUBDIVISION - See lot improvement subdivision.

ALLEY - A right-of-way, privately or publically owned, primarily for service access to the rear or sides of properties.

ALTERATIONS - As applied to a building or structure, means any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

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

APPLICATION - Every application, whether preliminary or final, required to be filed and approved prior to start of construction or development including, but not limited to, an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

BLOCK - A tract of land, a lot or groups of lots, bounded by streets, public parks, water courses, boundary lines of the Township, unsubdivided land or by any combination of the above.

BUFFER - A strip of land that separates one use from another use or feature and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to affect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases. A buffer yard may be a part of the minimum setback distance; however, land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

BUILDING COVERAGE - The percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures (including covered porches, carports and breeze ways, but excluding open and uncovered patios and decks).

BUILDING ENVELOPE - An area on a lot that has been designated as the area in which development may occur. Building envelopes are identified by building setbacks, conservation areas, site conditions and other factors, and shall be specifically designated on the development plan and established by deed covenants and restrictions.

BUILDING HEIGHT - The vertical distance measured from the mean level of proposed finished grade at the perimeter of the exterior walls of the structure to the highest point of the roof for flat roofs; and to the bottom of the eaves for all sloped roofs. Where any, or all, of a sloped roof is above the maximum building height, there shall be no occupied living or work space within the structure above the maximum building height. The maximum height of bottom of eave to ridge of roof for sloped roofs is 20 feet.

BUILDING, PRINCIPAL - A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

CALIPER - The diameter of a tree's trunk measured twelve (12) inches above the ground.

CAMPGROUND OR RECREATIONAL VEHICLE PARK - A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles, and which shall not be used for the residency of occupants a for period of time greater than one year. All campgrounds and recreational vehicle parks shall be considered a recreational subdivision or land development.

CAMPSITE - A lot within a recreational vehicle park or campground to be used for camping purposes, and acting as a site for travel trailers, truck campers, camper trailers, motor homes, or tents, marked by the developer on a plan as a numbered, lettered, or otherwise identified tract of land.

CARTWAY (ROADWAY) - The portion of a street right-of-way paved or unpaved intended for vehicular use, including the travelway and shoulders.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at street intersections, defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

COMMISSION OR PLANNING COMMISSION - The Township of Black Creek Planning Commission.

COMMON AREA - All of the real property and improvements dedicated for the common use and enjoyment of the residents of a particular development; including, but not limited to, open land, development improvements, common facilities, and recreation area.

COMMON FACILITIES - Improvements in a development that are not required by the Township but have been constructed as part of a development for the common use and enjoyment of the residents of that development; including, but not limited to, community centers, recreation buildings and structures, and administrative and maintenance buildings.

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

COMPREHENSIVE PLAN - The Black Creek Township Comprehensive Plan and/or the Luzerne/Lackawanna County Comprehensive Plan including all maps, charts and textual matter.

CONSERVATION AREA, PRIMARY - Those areas of a development tract that are comprised of environmentally sensitive lands on which development is not permitted.

CONSERVATION AREA, SECONDARY - Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community development.

CONSERVATION EASEMENT - A right or interest in land granted primarily for the preservation of the land in its undeveloped state but which may allow limited development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

CONSERVATION OPEN SPACE - That part of a particular conservation design subdivision development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance. Conservation open space may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland or forestland that are not accessible to project residents or the public.

COUNTY - The County of Luzerne, Commonwealth of Pennsylvania.

CROSSWALK OR INTERIOR WALK - A right-of-way or easement for pedestrian travel across or within a block.

DEAD END STREET - A street or portion of a street with a single common ingress and egress.

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

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

DEVELOPMENT IMPROVEMENTS - See improvement.

DIAMETER AT BREAST HEIGHT (DBH) - The diameter of a tree trunk measured at four and one-half (4.5) feet above the ground.

DISTURBANCE - Any action which results in the cutting or removal of vegetation on any land, and/or which results in the turning, displacement, grading or removal of any soil.

DISTURBED AREA - Any area of land on which the vegetation has been cut or removed, or where the soil has been turned, displaced, graded or removed.

DOUBLE FRONTAGE LOT - A lot extending between and having frontage on two streets with vehicular access limited to one street. If the streets are of different classification vehicular access is limited to the street of the lesser classification.

DRAINAGE FACILITY - Any ditch, gutter, pipe, culvert, storm sewer or other structure designed, intended, or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public right-of-way, parks, recreational areas, or any part of any subdivision, land development, or contiguous land areas.

DRIVEWAY - A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having frontage on the said road. (See also flag lot.)

DWELLING - A structure or portion thereof that is used exclusively for human habitation.

DWELLING, MULTI-FAMILY - (See also multi-family project.) A building or buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units. The term multi-family dwelling shall include condominium as well as non-condominium housing units including the following construction types:

A. RESIDENTIAL CONVERSION TO APARTMENTS - Conversion of an existing single family detached dwelling having been used as such for ten (10) or more years into three (3) to five (5) dwelling units and not exceeding two and one-half (2 1/2) stories in height.

B. GARDEN APARTMENT - Multi-family dwelling originally designed as such; containing three (3) or more dwelling units and not exceeding two and one-half (2 1/2) stories in height, not including townhouses.

C. TOWNHOUSE - Multi-family dwelling of three (3) or more dwelling units of no more stories than allowed by the Zoning Ordinance in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire resistant walls.

D. MEDIUM HIGH-RISE APARTMENT - Multi-family dwellings of more than two and one-half (2 1/2) stories but not exceeding the height limitations (in feet) of the Zoning Ordinance.

E. MOBILE HOME - A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two 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, and which is subject to U.S. Department of Housing and Urban Development regulations.

DWELLING, SINGLE-FAMILY - A detached dwelling unit accommodating one family, but excluding mobile homes as defined in this Ordinance.

DWELLING, TWO-FAMILY - Dwelling accommodating two families either with units which are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit; or upstairs/downstairs units. (See also multi-family project for two-family dwellings in a multi-family project.)

DWELLING UNIT - One (1) or more rooms in a dwelling structure, including a kitchen, sleeping facilities, bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

EASEMENT - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, within which the lessee or owner of the property shall not erect any permanent structure.

ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania.

ENGINEER, TOWNSHIP - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Township and/or Planning Commission.

FLAG LOT - A lot with access to the bulk of the lot provided by a narrow corridor from the adjoining public road.

FLOODPLAIN - A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

IMPERVIOUS SURFACE - Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher. The Township Engineer shall decide any dispute over whether an area is impervious.

IMPROVEMENT - For the purpose of classification as a land development as defined in this Article II, a physical addition or change to the land that may be necessary to make the land suitable for the proposed use or extension of use including, but not limited to, buildings, structures, additions to buildings and structures, roads, driveways, parking areas, sidewalks, stormwater controls and drainage facilities, landscaped areas, utilities, water supplies and sewage disposal systems, and any work involved with highway reconstruction.

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

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

The definition of land development shall also include the expansion or addition to a nonresidential building which involves any of the following as measured cumulatively from the effective date of this provision:

- A. The addition of twenty-five (25) percent or more of floor area to the structure; or,
- B. The increase by twenty-five (25) percent or more of impervious area (including building area) on the parcel; or,
- C. Any increase in impervious area which will result in the generation of storm water in such volume as will not be controlled by existing storm water facilities pursuant to the requirements of this Ordinance.

The definition of land development **shall not** include the following:

- A. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than two (2) residential units, unless such units are intended to be a condominium.
- B. The addition of an accessory residential building, including farm buildings and sheds, on a lot or lots subordinate to an existing principal residential building.

LANDOWNER - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), or a lessee, if he is authorized under the lease to exercise the rights of the landowner or other persons having a proprietary interest in the land.

LOT - A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

LOT, CORNER - A lot situated at and abutting the intersection of two (2) streets having an interior angle of intersection not greater than one hundred thirty-five (135) degrees.

LOT, DOUBLE FRONTAGE - A lot extending between and having frontage on two streets with vehicular access limited to one street. If the streets are of different classification vehicular access is limited to the street of the lesser classification.

LOT, EXISTING OF RECORD - Any lot or parcel of property which was legally in existence and properly on file with the Luzerne County Recorder of Deeds prior to August 3, 1970, the effective date of the original Black Creek Township Zoning Ordinance.

LOT, FLAG OR PANHANDLE - A lot with access to the bulk of the lot provided by a narrow corridor from the adjoining public road.

LOT COVERAGE - That portion or percentage of the lot area which is covered by buildings; paved and unpaved walkways, roads, driveways and parking areas; pavement; or other impervious surfaces.

LOT DEPTH - The average horizontal distance between the front lot line and the rear lot line. In the case of a flag lot, the depth measurement shall not include the access corridor but shall be made on the main portion of the lot.

LOT IMPROVEMENT SUBDIVISION - (Also known as add-on subdivision.) A minor subdivision involving the realignment of lot lines or the transfer of land to increase the size of an existing lot provided the grantor's remaining parcel complies with all provisions of this Ordinance and no new lots are created; or the combination or re-allotment of small lots into a larger lot or lots.

LOT LINE, FRONT - The line separating the lot from any street. In the case of a flag lot, the lot line where the narrow access corridor widens shall be considered the front lot line.

LOT LINE, REAR - The lot line most distant from and most parallel to the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT WIDTH - The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated or as may be specified in the this Ordinance. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to two-thirds (2/3) of the width that would otherwise be required if approved by the Township Supervisors. In the case of flag lots, the width measurement shall not include the access corridor but shall be made on the main portion of the lot.

MATURE TREE - Any tree of six (6) inches or more in caliper, whether standing alone, in tree masses, or woodlands. A mature tree shall be a healthy specimen and shall be a desirable species, as specified in the Township Landscaping Regulations.

MEDIATION - A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

MINIMIZE - To reduce to the smallest amount possible. Minimize does not mean to eliminate but rather that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action (such as grading, clearing, construction, etc.).

MOBILE HOME - A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two 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, and which is subject to U.S. Department of Housing and Urban Development regulations.

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 as defined by this Ordinance.

MOBILE HOME PARK - A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes as defined by this Ordinance.

MPC - The Pennsylvania Municipalities Planning Code.

MULTI-FAMILY PROJECT - Any development of a single parcel of property that includes one (1) or more buildings containing three (3) or more dwelling units. Any residential development which proposes the construction of two (2) or more two-family dwellings on one (1) parcel of property shall also be considered a multi-family project. Two-family dwellings in a multi-family project shall be considered townhouses.

MUNICIPALITY - The Township of Black Creek, Luzerne County, Pennsylvania.

OPEN LAND OR OPEN SPACE - That part of a particular development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance and the Township Zoning Ordinance. Open land may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland, forestland or conservancy lots which are not accessible to project residents or the public.

PA DEP - The Pennsylvania Department of Environmental Protection.

PA DOT - The Pennsylvania Department of Transportation.

PERFORMANCE GUARANTEE - A written instrument which may be accepted by the Township Supervisors in lieu of a requirement that certain improvements be made by a developer before the final plan is granted final approval and released for recording, which shall provide for the deposit with the Township of financial security in an amount sufficient to cover the costs of any improvements or common amenities including, but not limited to, roads, sanitary sewage facilities, water supply and distribution facilities, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements and buffer or screen planting which may be required.

PLAN OR PLAT - A map or drawing indicating the subdivision or resubdivision of land or a land development which in its various stages of preparation includes the following:

A. SKETCH PLAN - An informal plan, identified as such with the title Sketch Plan on the map, indicating salient existing features of a tract and its surroundings and the general layout of the proposal to be used as a basis for consideration by the Township. This plan is drawn on tracing paper or similar material enabling municipal officials to see the relationship between the proposed layout and the property's features as identified on the Existing Resources and Site Analysis Map.

B. PRELIMINARY PLAN - A complete plan identified as such with the wording Preliminary Plan in the title accurately showing proposed streets and lot layout and such other information as required by this Ordinance, such plan having been prepared by a qualified professional (see definition of qualified professional).

C. FINAL PLAN - A complete and exact plan identified as such with the wording Final Plan in the title, with a qualified professional's seal (see definition of qualified professional) affixed and prepared for official recording as required by this Ordinance to define property rights, proposed streets and other improvements.

D. RECORD PLAN - The copy of the final plan which contains the original endorsements of the Township Supervisors and which is intended to be recorded with the County Recorder of Deeds.

PLANNING COMMISSION - The Planning Commission of the Township of Black Creek, Luzerne County, PA.

POSITIVE DRAINAGE - Sufficient slope to drain surface water away from buildings without ponding.

PROFESSIONAL CONSULTANTS – Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, land architects or planners.

PUBLIC HEARING - A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this ordinance and the MPC.

PUBLIC MEETING - A forum held pursuant to notice under the act of July 3, 1986 (P.L.388, No. 84), as amended, known as the "Sunshine Act."

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

QUALIFIED PROFESSIONAL - An individual authorized to prepare plans pursuant to §503(1) of the MPC which states that plats and surveys shall be prepared in accordance with the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law, " except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (P.L. 1527, No. 535), known as the "Landscape Architects Registration Law, " when it is appropriate to prepare the plat using professional services set forth in the definition of the "practice of landscape architecture" under section 2 of that act.

RECREATIONAL SUBDIVISION OR LAND DEVELOPMENT - The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, or parcels of land involving changes in existing lot lines for the purpose, whether immediate or future, of lease, rent, sale, or transportation of ownership to provide a site for occupancy by travel trailers, truck campers, camper trailers, motor homes, or tents for transient use, whether or not a fee is charged. Campgrounds, RV parks, primitive camping grounds and other similar facilities shall fall under this definition.

RECREATIONAL VEHICLE - A vehicular type of unit initially designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on, or drawn by, another vehicle. The basic types of recreational vehicles are:

A. CAMPER TRAILER - A vehicular unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite.

B. MOTOR HOME - A vehicular unit built on a self-propelled motor vehicle chassis.

C. TRAVEL TRAILER - A vehicular unit, mounted on wheels, of such size (no more than 500 square feet) and weight as not to require a special highway movement permit when drawn by a motorized vehicle.

D. TRUCK CAMPER - A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck.

E. SELF-CONTAINED UNIT - A unit which:

1. Can operate without connections to external sewer, water and electrical systems;
2. Has a toilet and holding tank for liquid waste; and
3. Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities connected to the holding tank.

RESERVE STRIP - A parcel of ground in separate ownership separating a street from other adjacent properties or from another street.

RESUBDIVISION - Any revision, replatting or resubdivision of land which includes changes to a recorded plan.

REVERSE FRONTAGE LOTS - Lots which front on one street and back on another with vehicular access solely from only one street.

RIGHT-OF-WAY - The total width of any land reserved or dedicated as a street, drainage way or for other public or semi-public purposes.

RUNOFF - That portion of rainfall or snow-melt which does not enter the soil, but moves off the surface.

SCREEN - A device, material or construction used to conceal an element of a development from other elements or from adjacent development or public road rights-of-way, which may include walls, fences, topography, berms, natural and planted vegetation or other means approved by the Township.

SETBACK - An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines.

SEWAGE DISPOSAL SYSTEM –

A. CENTRALIZED - A publicly or privately owned and operated utility system or other system designed to collect, centrally treat (with a sewage treatment plan) and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the Township.

B. COMMUNITY - A publicly or privately owned and operated utility system or other system designed for the collection of sewage from two or more lots and for the treatment and disposal of the sewage on one or more lots, or at any other site, by on-site subsurface (into the soil) disposal systems and techniques in compliance with regulations of the appropriate state agency and of the Township.

C. INDIVIDUAL - A utility system or other system designed for the collection, treatment and disposal of sewage from a single lot into the soil or into the waters of the Commonwealth or for conveyance to another site for final disposal.

SEWAGE TREATMENT PLANT - A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of Environmental Protection in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated, and which uses mechanical, biological and chemical processes to treat and dispose of domestic sewage in accord with DEP Rules and Regulations involving an effluent discharge to surface waters.

SEWER CONNECTION, MOBILE HOME - All pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe.

SEWER RISER PIPE, MOBILE HOME - That portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

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

SHOULDER - The improved portion of a street immediately adjoining the travelway.

SPECIMEN TREE - Any tree with a caliper that is twelve (12) inches or more in diameter at breast height.

STREET - A strip of land, public or private, including the entire right-of-way intended for use as a means of vehicular and pedestrian circulation. For street types see Article VI.

SUBDIVIDER - See developer.

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

A. MINOR SUBDIVISION – any land development or subdivision in which:

- a. No public or private street is to be constructed or is required to be widened;
- b. No other improvement is to be constructed that requires any form of subdivision escrow agreement other than individual on-lot stormwater management system;
- c. No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and
- d. No more than five (5) building lots are created; this does not include residual tract parcels that are subject to non-building sewage waivers.

B. MAJOR SUBDIVISION - Any subdivision that is not a minor subdivision or a lot improvement subdivision.

C. LOT IMPROVEMENT SUBDIVISION - (Also known as add-on subdivision.) A minor subdivision involving the realignment of lot lines or the transfer of land to increase the size of an existing lot provided the grantor's remaining parcel complies with all provisions of this Ordinance and no new lots are created; or the combination or re-allotment of small lots into a larger lot or lots.

SUBSTANTIALLY COMPLETED - Where, in the judgment of the Township Engineer, at least ninety (90) percent (based on the cost of the required improvements for which financial security was posted pursuant to this Ordinance) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

SUPERVISORS - The Township Supervisors of the Township of Black Creek, Luzerne County, Pennsylvania.

SURVEYOR - A professional land surveyor licensed as such in the Commonwealth of Pennsylvania.

TOWNSHIP - The Township of Black Creek, Luzerne County, Pennsylvania.

TOWNSHIP SUPERVISORS - The Township Supervisors of the Township of Black Creek, Luzerne County, Pennsylvania.

TRAVELWAY - The portion of the cartway used for normal movement of vehicles.

UNDISTURBED AREA - Any area of land on which the vegetation has not been cut or removed, or where the soil has not been turned, displaced, graded or removed.

VERNAL POND - An isolated, contained basin depression that holds water for at least two (2) months in the spring and summer, critical to several amphibian, reptile and invertebrate species. It also provides important storage for stormwater runoff and spring snowmelt that would otherwise contribute to down stream flooding. A vernal pond is no bigger than three hundred (300) feet long and one hundred and twenty (120) feet wide and is often much smaller.

WATER CONNECTION, MOBILE HOME - All pipes, fittings and appurtenances from the water-riser pipe to the water inlet pipe of the central water system in the mobile home park.

WATERCOURSE - Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial, intermittent or seasonal flow.

WATER RISER PIPE, MOBILE HOME - That portion of the water service pipe which extends vertically to the ground elevation and terminates at each mobile home lot.

WATER SERVICE PIPE, MOBILE HOME - All pipes, fittings valves, and appurtenances from the water main of the mobile home park central water system to the water outlet of the distribution system within the mobile home.

WATER SUPPLY, CENTRAL - A public or private utility system designed to supply and transmit drinking water from a common source to two or more dwelling units or uses in compliance with Pennsylvania Department of Environmental Protection regulations.

WATER SUPPLY, INDIVIDUAL SYSTEM ON CONSERVATION LAND - A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on adjacent conservation land via a use and access easement, and in compliance with the Pennsylvania Department of Environmental Protection if such compliance is required.

WATER SUPPLY, ON-SITE - A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on the same lot, and in compliance with the Pennsylvania Department of Environmental Protection if such compliance is required.

WETLAND - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas.

WOODLAND - A stand of predominantly native vegetation covering at least one (1) acre, consisting of at least fifty (50) percent cover of mature trees of varying size.

YARD - An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

ARTICLE III

General Procedures for All Subdivision and Land Development Plans

SECTION 300

GENERAL

A. All preliminary and final subdivision or land development plans shall be reviewed by the Township Planning Commission and shall be approved, approved with conditions, or disapproved by the Board of Supervisors in accordance with the procedures specified in this ordinance. Any application not processed, as required hereafter shall be null and void unless it was made prior to the adoption of these regulations.

B. Overview of Procedures: The sequence of actions recommended under this Ordinance is listed below. All of these steps should be followed sequentially with the exception of steps 1 through 3 which may be combined at the discretion of the Township (The below procedures only apply for major subdivisions and land developments):

1. Pre-Application Meeting with Township Engineer and Zoning Officer. This step is voluntary, but encouraged for both Sketch and Preliminary Plan Submissions.
2. Site Inspection by Planning Commission, Township Engineer and Applicant (if requested by the Planning Commission).
3. Sketch Plan Submission and Review. (No formal action will be taken on a Sketch Plan submittal)
4. Preliminary Plan Submission, Determination of Completeness.
5. Preliminary Plan, review by Planning Commission and action by Supervisors.
6. Final Plan Submission, Determination of Completeness.
7. Final Plan, review by Planning Commission and action by Supervisors.
8. Planning Commission and Supervisors' signatures.
9. Recording of plan and required documents at the Luzerne County Recorder of Deeds.

SECTION 301

MAJOR AND MINOR SUBDIVISIONS

A. For the purposes of procedure, all applications shall be classified as either major or minor:

1. **Minor:** any subdivision in which:

a. No public or private street is to be constructed or is required to be widened. This does not include a driveway which is to be used for access one single family residential lot;

b. No other improvement is to be constructed that requires any form of subdivision escrow agreement other than individual on-lot stormwater management system;

c. No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and

d. No more than five (5) building lots are created; this does not include residual tract parcels that are subject to non-building sewage waivers.

e. A lot consolation or lot combination is to take place; please note that this Ordinance shall exempt an applicant from the subdivision process if the applicant can produce a certified property outbound survey of the parent tract completed by a licensed Professional Land Surveyor in Pennsylvania and a recorded deed of the parent tract.

2. **Major:** any subdivision application not in compliance with Section 301.A.1 or any part thereof, or for any use other than single family residential, shall be considered a major plan.

B. Major applications shall be subject to all review procedures specified in this article.

C. When a tract is subdivided into parcels large enough to permit resubdivision of the parcels, the Planning Commission may require the submission of a sketch layout showing future potential subdivision of the parcels to ensure that subdivision may be accomplished in accordance with current ordinances and with appropriate access. Submission and review of the sketch plan described in this section shall not constitute approval of the future subdivision shown thereon.

SECTION 302

SUBMISSION OF SKETCH PLAN

A. Applicability

A diagrammatic sketch plan is required for all proposed major subdivisions and land developments with a proposed building size over 10,000 square feet. Sketch plans shall be submitted to the Township Secretary for review by the Board of Supervisors (at their discretion) and/or Planning Commission. Such plans are for informal discussion only. Submission of a sketch plan does not constitute submission of an application for approval of a subdivision or a land development plan and shall not commence the statutory review period as required by the Municipalities Planning Code. The procedures for submission of a diagrammatic sketch plan are described in Section 302 F below, and may be altered only at the discretion of the Township.

B. Pre-Application Meeting

A pre-application meeting is strongly encouraged between the applicant, the site designer, the Township Engineer and the Township Zoning Officer to introduce the applicant to the Township's zoning and subdivision regulations and procedures, and to discuss the applicant's submission as described below.

C. Submission of Existing Resources and Site Analysis Plan

Applicants shall prepare and furnish an Existing Resources and Site Analysis Plan for all major subdivisions, in accordance with the requirements contained in Section 502C, to familiarize the Township with existing resources on the applicant's tract, and for use as a reference in making a site inspection. This plan may be provided prior to or at the site inspection and shall form the basis for the preliminary plan.

D. Site Inspection

After completing the Existing Resources and Site Analysis Plan, applicants should arrange for a site inspection of the property by the Planning Commission, Township Engineer and other Township officials. Applicants, their site designers, and the landowner are encouraged to accompany the Planning Commission and Township officials. The purpose of the visit is to familiarize the Township with the property's existing resources and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the general layout of designated Greenway lands (if applicable), and potential locations for proposed buildings and street alignments.

E. Pre-Sketch Conference

Following the site inspection and prior to the submission of a diagrammatic sketch plan, the applicant should meet with the Planning Commission to discuss the findings of the site inspection and to develop a mutual understanding on the general approach for subdividing and / or developing the tract in accordance with the four step design procedure described in Section 502E of this ordinance, where applicable. At the discretion of the Commission, this conference may be combined with the site inspection.

F. Sketch Plan Submission and Review

- 1. Copies of the diagrammatic sketch plan shall be submitted to the Township Secretary during business hours for distribution to the Board, the Planning Commission, and the Township Engineer, at least seven (7) days prior to the Planning Commission meeting at which the sketch plan is discussed.**
2. Standards for preparing the diagrammatic sketch plan are set forth in Section 501.
3. The Planning Commission shall review the sketch plan in accordance with the criteria contained in this ordinance and with other applicable ordinances of the Township. The Planning Commission shall submit its written comments to the applicant and the Board.

SECTION 303 SUBMISSION REQUIREMENTS TO OUTSIDE AGENCIES

All plans and documents that are required to be submitted to outside agencies shall be submitted to the agencies by the Applicant. Proof of submittal to all required outside agencies must be provided by the Applicant to the Township at the time of the submittal of the original application. Any required submittals to the required outside agencies that can not be verified by the Township shall be considered reason to deem the application incomplete. Below is a general description of typical outside agency submittals:

A. Luzerne County Planning Commission: One (1) copy of the preliminary plans, reports, the appropriate Sewage Facilities Planning Module Form, a cover letter, and all review fees shall be submitted to the Luzerne County Planning Commission for review and comment.

B. Pennsylvania Department of Environmental Protection: Two (2) copies of all preliminary plans, two (2) copies of the appropriate Sewage Facilities Planning Module Form, and a cover letter shall be submitted to PA DEP. Also, depending on the nature of the project, all other required permit applications shall be submitted to the PA DEP for their review and approval.

C. Luzerne Conservation District: Three (3) copies of E&S plans, Post Construction Stormwater Management Plans, E&S narrative and Post Construction Stormwater Management Report shall be submitted to the Luzerne Conservation District for review of matters relating to drainage, stormwater management, and abatement of soil erosion. Costs for such review shall be paid by the applicant.

D. Luzerne County Engineers Office: One (1) copy of preliminary plans and reports shall be submitted to the Luzerne County Engineers Office for their engineering review. Costs for such review shall be paid by the applicant.

E. Pennsylvania Historical Society: One (1) copy of preliminary plans shall be submitted to the Pennsylvania Historical Society for their review, research of historical significant sites prior to approval (if applicable).

F. Army Corps of Engineers: One (1) copy of preliminary plans and wetland delineation report shall be submitted to the Army Corps of Engineers for their review (if applicable).

G. Additional Plans: Upon request by the Township, the applicant shall submit such additional prints of all plans as may be necessary for forwarding by the Township to any other agencies for their review.

SECTION 304

SUBMISSION OF PRELIMINARY PLAN

A. After review of a sketch by the Planning Commission a detailed preliminary subdivision or land development plan and all necessary supplementary data shall be officially submitted to the Township Secretary. The detailed preliminary plan shall conform to the sketch plan as previously reviewed by the Planning Commission and shall incorporate all modifications required by the Township in its review of the sketch plan. **The preliminary plan and supporting materials must be submitted to the Township a minimum of fourteen (14) days prior to the next Planning Commission meeting to be considered for placement on that meeting's agenda.**

NOTE: All Minor Subdivisions and “low impact” Land Developments may file simultaneously for preliminary and final approval. Land Development submittals will be judged on a case by case basis by the Supervisors.

B. Fourteen (14) copies of the preliminary plan and all other required documents and information shall be submitted to the Township Secretary together with the required fees established in accord with the terms of this ordinance. The Township Secretary shall note the date of tentative receipt of the application and fees. The said tentative date of receipt is subject to the review by the Township Secretary, Township Engineer and Supervisors to determine if all required materials and fees have been submitted by the applicant. The items required for a submission to be deemed complete are outlined in this Ordinance and the most current version of the Black Creek Township Subdivision and Land Development Application package. If the application is defective or incomplete, the applicant shall be notified in writing within fourteen (14) days of the tentative date of receipt and the application shall be null and void and shall be deemed withdrawn by the applicant. If no such notice is given to the applicant that the application is defective or incomplete, it shall be assumed that the project is complete and the application will be added to the agenda of the next regular meeting of the Township Planning Commission. If the Planning Commission accepts the application as complete at the regular meeting, the meeting date will be the official date of the acceptance of a complete submission and the commencement of the Pennsylvania Municipal Planning Code required 90-day review period.

C. The Township Secretary shall distribute the plans and documents submitted by the applicant as follows:

1. Eight (8) copies of the plans and other required materials to the Township Planning Commission (includes alternate member and Supervisors sitting on the Commission);
2. One (1) copy of plans and all materials to the Township Engineer;
3. One (1) copy of plans and all materials to the Board of Supervisors;
4. One (1) copy of plans and all materials for the Township files;
5. One (1) copy of plans and all materials to the Solicitor of the Planning Commission;
6. One (1) copy of plans and all materials to the Fire Chief; and

7. One (1) copy of plans and all material to the Zoning Officer.

D. The applicant shall pay all fees required for preliminary plan review, which fees shall be determined by resolution of the Board of Supervisors.

E. For all major subdivisions and land developments the applicant shall provide proof of notification of the filing of the application by certified mail, return receipt requested, to all owners of properties abutting the tract proposed for subdivision. The notification shall include name and address of the applicant/developer, the tax parcel number of the tract, total tract acreage, number of lots proposed and any zoning changes, variances, special exceptions, conditional uses, and waivers of ordinance requirements being requested. Proof of the notice required by this paragraph shall be provided to the Township at the time of the original submission of the preliminary plan. Major subdivision and land development applications that are submitted to the Township without the proper proof of notification shall be deemed incomplete by the Township.

F. If at any time the applicant submits a revised preliminary plan with significant changes (i.e., an increase of two (2) or more proposed lots or dwelling units, an increase in a proposed non-residential building size of over twenty percent (20%), a change in proposed water source for the development, a change in the proposed sewage disposal and collection method for the development or any other significant change as determined by the Township Engineer that would require a new review by the County or notification to the public) the plan shall be deemed a new application and shall not be accepted unless it is accompanied by the applicant's written and executed agreement of a ninety (90) day extension of the period required by the MPC for decision. No new application fee shall be required for any revision submitted within two (2) years of the first preliminary plan application other than those required by the County.

G. The Pennsylvania Code, Title 67, Chapter 441.3 states: "No driveway, local road or drainage facility or structure shall be constructed or altered within State highway right-of-way, and no drainage facility of the Department shall be attached or connected onto without first obtaining a permit from the Department." Where required, developers will obtain a highway occupancy permit as a condition of preliminary subdivision approval or building permits. Any substantial change required by PennDOT during the process of obtaining Highway Occupancy will necessitate the resubmission of a revised preliminary plan to the Planning Commission.

SECTION 305

REVIEW OF THE PRELIMINARY PLAN

A. Township Planning Commission

1. The Township Planning Commission shall review the preliminary plan and any recommendations made by the County, State and Federal agencies and the Township Engineer.
2. After such review, the Planning Commission shall send written notice of its recommendations to the Board, and is encouraged to cite specific sections of the statutes or ordinances relied upon.
3. The Planning Commission may refrain from making their recommendation to the Board until the municipality has received the written report of the Luzerne County Planning Commission, the Luzerne County Engineers Office, the PA DEP, the Luzerne Conservation District, the Township Engineer, the PA Department of Transportation, the PA Historical Society, results of the PNDI search or report from any other agency or municipality that may be involved in the review of the project.

B. Board of Supervisors

1. When the recommendations on a preliminary plan have been officially submitted to the Board of Supervisors by the Planning Commission, such recommendations shall be placed on the Board's agenda for review and action. At the discretion of the Supervisors, the Supervisors can place a project on their agenda for action if the Board feels the Planning Commission incorrectly delayed their recommendation on the project.
2. During or before the final plan review process, the Board should complete review of the proposed Sewage Facilities Planning Module in accordance with PA DEP regulations and procedures. When approved or adopted by the Board, the Planning Module shall be forwarded to PA DEP for review and approval. Planning modules will not be forwarded by the municipality to PA DEP until all items of the module checklist have been completed or adequately addressed.
3. In acting on the preliminary subdivision or land development plan, the Board shall review the plan and the written comments of the Township Engineer, the Planning Commission, the Luzerne County Planning Commission, Luzerne County Conservation District, DEP, and all other reviewing agencies, and comments from public hearings. The Board may specify conditions, changes, modifications or additions thereto which it deems necessary or appropriate, and may make its

decision to grant preliminary approval subject to such conditions, changes, modifications, or additions. Whenever the approval of a preliminary plan is subject to conditions, the written action of the Board of Supervisors shall specify each condition of approval and request the applicant's written agreement to the conditions within thirty (30) days of hand delivery or mailing of the Board's written decision.

4. Notwithstanding the foregoing procedure, unless the applicant agrees in writing to extend the period for decision, the Board shall render a decision on all preliminary plans and communicate the decision in writing to the applicant not later than ninety (90) days following the date of the regular meeting of the Planning Commission in which the Commission accepted the plans.

5. The decision of the Board shall be in writing and shall be communicated to the applicant personally or mailed to him/her at his/her last known address not later than fifteen (15) days following the decision. The form and content of the decision shall comply with applicable requirements of the Act.

6. The decision of the Board shall also be communicated by the Township to the governing body of any adjacent municipality, if the plan includes land in that municipality and/or directly abuts its boundaries.

7. A revised preliminary plan must be submitted if any revisions are made to the plan. Revisions include, but are not limited to, the following:

- a. Number, size, alignment of layout of lots;
- b. Width, location, or alignment of streets;
- c. Traffic flow patterns or parking arrangements;
- d. Drainage or utility systems;
- e. Proposed sewage facilities;
- f. General type, number, size, or area of landscaping, buffering details, or locations of berms;
- g. Use; or
- h. Passive and Active open space.

8. If the Board has not had sufficient time to make a decision based on the information presented by the applicant or the applicant has not had sufficient time to make revisions requested and agreed to by the Board, the applicant has the right to request or present a written and executed agreement for a ninety (90) day extension of the period for decision.

SECTION 306

SUBMISSION OF FINAL PLAN

A. Unless otherwise extended by the Board of Supervisors a final plan and all necessary supplementary data shall be officially submitted to the Township Secretary within **two (2) years** after the approval of the preliminary plan. The final plan shall conform to the preliminary plan as previously reviewed by the Planning Commission and the Board and shall incorporate all modifications required by the Township in its review of the preliminary plan. **The final plan and supporting materials must be submitted to the Township a minimum of fourteen (14) days prior to the next Planning Commission meeting to be considered for placement on that meeting's agenda. The same procedure as outlined in Section 304.B will be used for a completeness determination by the Township.**

B. The Board of Supervisors may permit submission of the final plan in phases, each covering a reasonable portion of the entire proposed development as shown on the approved preliminary plan; provided that the first final plan phase shall be submitted within two (2) years after approval of the preliminary plan. Each subsequent phase shall be submitted within one (1) year of approval of the previous phase, provided all phases have been submitted within five (5) years of original approval.

C. Unless the filing deadline in Section 306A is waived or extended by the Board, failure to make timely submission of final plans renders void a preliminary plan, and the applicant shall be required to file a new application and fee for preliminary plan approval.

D. The applicant will have five (5) years, counted from the date of the preliminary approval, to substantially complete ninety percent (90%) the installations of improvements as depicted on the final plat without losing subdivision or land development approval. Extensions may be requested and granted by the Board in its discretion. In the case of a preliminary plat calling for the installation of improvements beyond the five year period, a schedule shall be filed by the applicant with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary approval, until final plat approval of the final

section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Board in its discretion.

E. Official submission of the final plan to the Township Secretary shall consist of:

1. One (1) copy of the application for review of final subdivision or land development plan.
2. Fourteen (14) copies of the final plans and supporting materials to enable proper distribution and review by the Township.
3. Copies of all applications made or notices provided to Federal, State and County agencies by or on behalf of the applicant for permits, certifications, approvals or waivers required sought for either subdivision or land development as proposed in the preliminary or final plan, including, but not limited to, applications or notices provided to the U.S. Army Corps of Engineers, U.S. Department of Agriculture Soil Conservation District, U.S. Environmental Protection Agency, Commonwealth of Pennsylvania Department of Environmental Protection (PA DEP) or Pennsylvania Department of Transportation (PA DOT), and Luzerne Conservation District.
4. Payment of application fees, if required, for plan review costs.

F. The fourteen (14) required copies of the final plans and all required supplementary data shall be submitted to the Township Secretary together with the required fees as prescribed by resolution of the Board. The Township Secretary shall note the date of receipt and shall then forward:

1. Eight (8) copies of the plans and other required materials to the Township Planning Commission (includes alternate member and Supervisors sitting on the Commission).
2. One (1) copy of plans and all materials to the Township Engineer.
3. One (1) copy of plans and all materials to the Board of Supervisors.
4. One (1) copy of plans and all materials for the Township files.
5. One (1) copy of plans and all materials to the Solicitor of the Planning Commission.

6. One (1) copy of plans and all materials to the Fire Chief.
7. One (1) copy of plans and all material to the Zoning Officer.
8. One (1) Mylar copy of all plans intended to be recorded must be supplied to the Township prior to final approval. The Mylar copy is not required at the time of the initial application since plan revisions will most likely be required.

G. Where the final plan is for a minor subdivision, the applicant shall submit the plan in accordance with the requirements of Section 304 above.

SECTION 307 REVIEW OF FINAL PLAN

A. Township Planning Commission

1. The Planning Commission will review the final plan and the recommendations of the Township Engineer and any other reviewing agencies.
2. After such review, the Planning Commission shall send written notice of its recommendation and its reasons to the Board and the applicant. If the plan includes land in any adjacent municipality and / or directly abuts its boundaries, then such notice and recommendation will also be transmitted to the governing body of the adjacent municipality.
3. No recommendations shall be made by the Planning Commission until the municipality has received the written report of the County Planning Commission, the Township Engineer, the Pennsylvania Department of Environmental Protection (PA DEP), the Department of Transportation (PA DOT) , if applicable, and the approval of the Luzerne Conservation District, provided, however, that if these reports are not received within forty-five (45) days after the transmittal of the final plan to these agencies, then the Planning Commission may act without having received and considered such report if they so choose.

B. Board of Supervisors

1. No approval of the final plan shall be granted by the Supervisors until notification of PA DEP's approval of the Sewage Facilities Planning Module has been received by the Board. Should such notification not be received within the time limitations for final plan approval in accord with the Act, the time limitations shall be extended for not more than ninety (90) days at the written request of the applicant. If the applicant refuses to provide such written requests, the final plan shall be disapproved.
2. When a recommendation on a final plan has been submitted to the Board of Supervisors by the Planning Commission, such plan shall be placed on the agenda of the Board of Supervisors for review and action.
3. Upon receipt of the Planning Commission's recommendation and other supporting information, the Board may, at one or more regular or special public meetings, review the final plan and shall, within the time limitations set forth herein below, either approve or disapprove the plan. Whenever the approval of a final plan is subject to conditions, the written action of the Board shall specify each condition of approval and request the applicant's written agreement to the conditions.
4. Notwithstanding the foregoing procedure, the Board should render a decision on all final plans and communicate it to the applicant, in writing, as required by the Municipalities Planning Code.
5. If at any time the applicant submits a revised final plan with significant changes, it shall be deemed a new application and shall not be accepted unless it is accompanied by the applicant's written and executed agreement of a ninety (90) day extension of the period required by the Act for decision. No new application fee shall be required for any revision submitted within two (2) years of the first preliminary plan application other than those requested by the County.
6. Copies of the final plan, as finally approved with the appropriate endorsement of the Board, shall be distributed as follows:
 - a. At least three (3) copies to the applicant of which one (1) shall be recorded in accordance with Section 311. The Mylar copy must be recorded.
 - b. One (1) copy of plan and materials to the Township Planning Commission.

- c. One (1) copy of plan and materials to the Township files.
- d. One (1) copy of plan and materials to the Township Engineer. If a road and/or storm water management systems are involved, an additional “as built” plan with deed of application shall be submitted when completed if requested by the Township Engineer, Supervisors or Planning Commission.

C. Conditions of Final Plan Approval

Approval of any final plan shall, in addition to any other applicable provisions of the ordinance, be subject to the following conditions:

1. The landowner shall execute a subdivision and land development agreement in accordance with Section 308 and Section 708.
2. Where applicable, the landowner shall execute a subdivision escrow agreement in accordance with Section 309 and Section 703.
3. The landowner agrees, if requested, to tender to the Township a deed of dedication in a form satisfactory to the Township Solicitor for streets and improvements thereto, including street paving, water mains, fire hydrants, storm water management systems, play grounds, parks, and other appurtenances as shall be constructed as public improvements within the public right-of-way and are required for the promotion of public welfare, after all streets and improvements to be dedicated to the Township are completed and are certified as being satisfactory by the Township Engineer. The Board shall require that the applicant provide a certificate from a duly licensed title insurance company certifying that the title to be conveyed is good and marketable, free of all liens and encumbrances, except utility easements, before any property is accepted by the Township.
4. Whenever the landowner is providing open space as part of the development, an easement in perpetuity restricting such open space against further subdivision or development shall be executed between the landowner and the Township or an organization acceptable to the Township.
5. The applicant shall submit to the Township all required permits, approvals or waivers from agencies having jurisdiction over ancillary matters necessary to effect the subdivision or land development, such as Pennsylvania Departments of Transportation, Environmental Protection or Public Utility Commission, U.S. Army Corps of Engineers, and Luzerne Conservation District.

6. All final approvals or waivers required by Federal, State, and County agencies for development in accord with the final plan including, but not limited to, approval of the Sewage Facilities Planning Module by the PADEP, approval by the U.S. Department of Agriculture Soil Conservation District and a Highway Occupancy Permit, if required, from PennDOT shall be presented to the Township.

SECTION 308 SUBDIVISION AND LAND DEVELOPMENT AGREEMENTS

The applicant shall execute a subdivision and land development agreement, and a subdivision escrow agreement, before the final plan is signed and released by the Board for recording.

The requirements for the Subdivision and Land Development Agreements can be found in Section 708 of this ordinance.

SECTION 309 IMPROVEMENT GUARANTEE (ESCROW AGREEMENT)

The requirements for the Improvement Guarantee can be found in Section 703 of this ordinance.

SECTION 310 RECORDING OF DETAILED FINAL PLAN

Within **ninety (90) days** of the detailed final approval and the applicant's execution of the Subdivision and Land Development Agreement and Subdivision Escrow Agreement, if required, the Final Plan shall be recorded by the applicant in the office of the Recorder of Deeds of Luzerne County or the plans shall be void. A copy of the receipt from the office of the Recorder of Deeds, verifying that the Final Approved Plan has been recorded, shall be returned to the Township Secretary within fifteen (15) days of recording. The Township Secretary shall affix the receipt to the Township file copy of the approved final plan.

SECTION 311 COMMENCEMENT OF DEVELOPMENT AND PERMITS

A. Infrastructure may be constructed once preliminary approval has been granted and all outside agency permits that relate to construction are obtained. If a plan is granted preliminary approval with conditions by the board infrastructure may not be constructed until all conditions of the approval have been met by the applicant. No on-lot building construction activities (including earthmoving activities, but not including soil or percolation testing or surveying activities) shall begin until the Township Zoning Officer has received a copy of the Recorder of Deed's receipt for recording of the final plan, or a building or driveway permit has been issued.

B. No application for a building permit under the Township Zoning Ordinance shall be submitted, and no building permit under the Township Zoning Ordinance shall be issued for any building in any subdivision or land development, and no work shall be done on any building in any subdivision or land development until it has been approved as provided for and until the terms of Section 311 have been satisfied. Exception for one building on one lot prior to final approval being granted may be allowed. Further, where final subdivision and land development approval has been conditioned upon the submission and approval of individual lot grading, plans for some or all of the lots, no building permits shall be issued for construction on any such lot until this condition has been complied with.

C. No water system or sewer system, including extensions to existing or proposed central systems or new systems using sewage treatment plants, shall be constructed before the issuance of appropriate permits are issued by the Pennsylvania Department of Environmental Protection or from federal or local agencies, as required.

D. Before the issuance of building permits, all roads, stormwater management facilities, both temporary and permanent, and all other public improvements, shall be installed and established to the satisfaction of the Township Engineer or such improvements shall have been properly guaranteed.

SECTION 312 LAND SALES AND AUCTIONS

Land sales or auctions of anything other than a complete tax parcel, whether new streets or easements are involved, shall be considered a subdivision. Final plan approval for such a subdivision shall be obtained before advertising of the sale or auction, so that sale and offers to sell shall be with reference to an approved final subdivision plan.

SECTION 313 TIME LIMITATION OF PLAN

The continuing validity of any approval of plans in accordance with this article shall be subject to those limitations established by Section 508 (4) of Act 247, as amended.

ARTICLE IV

Resource Conservation and Greenway (Open Space) Delineation Guidelines

SECTION 400

APPLICABILITY AND PURPOSE

A. Applicability

The standards for resource conservation, as set forth in this Article, shall apply to all major subdivisions and all land developments in all zoning districts of Black Creek Township. The standards for greenway delineation shall apply to all major residential subdivisions and all multi-family residential land developments in all zoning districts of Black Creek Township. Minor subdivisions are exempt from both the resource conservation and greenway delineation requirements of this Ordinance.

B. Purpose

1. To provide for the preservation of greenspace as a nonstructural stormwater best management practice (BMP) and watershed protection measure.
2. To provide a method for subdivision design that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
3. To preserve in perpetuity unique or sensitive natural resources such as but not limited to groundwater, regulated floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
4. To permit clustering of houses and site infrastructure on less environmentally sensitive soils which will reduce the amount and cost of infrastructure, including impervious surfaces and utility easements, necessary for residential development.
5. To reduce soil erosion and sediment pollution by minimizing earth disturbance and removal of existing vegetation in residential development.
6. To promote interconnected and continuous greenways and greenspace through Black Creek Township and adjacent municipalities.

7. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public places and encouraging use of parks and community facilities as focal points in the neighborhood.
8. To encourage street designs that reduces traffic speeds and reliance on main arteries.
9. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.
10. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and view of open space.
11. To promote a development type that allows for property values to appreciate faster than properties in conventional subdivisions due to the added amenities provided by the adjacent open space.

SECTION 401

PLANNING AND DESIGN STANDARDS

A. General Standards to Minimize Adverse Impacts

All subdivisions and land developments shall avoid or minimize adverse impacts on the Township's natural, cultural and historic structures, as defined below.

B. Groundwater Resources

This section is intended to ensure that the Township's limited groundwater resources are protected for purposes of providing water supplies for its residents and businesses, and to protect the base flow of the Township's surface waters.

1. The proposed subdivision and land development of any tract shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table, through careful planning of vegetation and land disturbance activities, and the placement of streets, buildings, and other impervious surfaces.

2. All proposed subdivisions and land developments in which the total land disturbance is greater than one acre shall be required to infiltrate the net increase in stormwater runoff due to site development resulting from the 2-year, 24-hour frequency storm event if the on-site soil evaluations find that the existing soils are suitable for infiltration.

3. On-site soil evaluations are required to be completed by the applicant and are to be in-conformance with the most recent PA DEP guidelines. The evaluations shall determine if stormwater infiltration is feasible, the best locations for the stormwater infiltration Best Management Practices (BMP's) and the infiltration rate to be used for design. A licensed Soil Scientist or qualified professional engineer shall perform the soil evaluations.

4. Pre-development and post-development stormwater runoff calculations must be provided and shall be in conformance with the standards outlined in the Township's Stormwater Management Ordinance and Section 620.

5. Aquifer tests for major subdivisions and land developments to be served by a new water system or individual on-lot water wells may be required by the Township if the proposed project is in proximity to areas known groundwater contamination or inadequate yields of potable water supplies. Aquifer tests will be required for all new developments in which the developer plans to construct, operate or substantially modify a water system which will serve fifteen (15) new service connections, twenty five (25) year-round residents or the development involves the construction of twenty five (25) or more individual on-lot water wells. See Section 618 for specific standards.

C. Stream Valleys, Wetlands, Swales, and Other Lowland Areas

Stream valleys (which include stream channels and flood plains), wetlands, swales, springs, and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems.

1. Any encroachment on areas determined to be within a Waterway of the Commonwealth shall be regulated by PA Code Title 25 Chapter 105, Dam Safety and Waterway Management, and Chapter 106, Floodplain Management, as amended.

2. A fifty feet (50') wide undisturbed buffer shall be required around the perimeter of all delineated wetlands and other surface waters unless the proposed earth disturbance is associated with a state or federal wetland encroachment permit. For all streams with mapped floodways there is to be no disturbance within the FEMA floodway line. For streams that are not shown on the FEMA mapping the floodway is assumed to be fifty feet (50') from the top of the bank of the stream on both sides however a buffer zone of seventy five feet (75') is required from the top of the banks of all streams. There is to be no disturbance within the assumed floodway area or buffer area.

3. The following activities shall be minimized:

a. Disturbance to streams.

b. Disturbance to wetlands, areas with seasonally high water tables, and areas of surface water concentrations. No disturbance to a wetland is permitted without proof the applicable permit from the state or federal government has been submitted to the Township.

c. Because of their extreme limitations, stream valleys, swales and other lowland areas warrant designation as Greenway lands. They may also require adjoining buffer lands to be included in the Greenway, to be determined by an analysis of the protection requirements of such areas on a case-by-case basis. In certain instances, seasonal high water table soils may be excluded from the Greenway where it can be demonstrated that they are suitable for low density residential uses and conventional on-site sewage systems.

D. Woodlands

Woodlands occur extensively throughout the Township, often in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes.

Woodland conditions within Black Creek Township vary with respect to species composition, age, stocking, and health. They range from relatively recent post-agricultural young stands to mature mixed-age forests. Most woodlands in the Township represent one or more of the following resource values:

a. As soil stabilizers, particularly on moderate to steep slopes, thereby controlling erosion into nearby streams, ponds, impoundments and roads. A closely related function is their enhancement of ground water recharge.

- b. As a means of improving harsh microclimatic conditions, in both summer and winter.
- c. As a source of wood products to provide income for landowners i.e., poles, saw timber, veneer and firewood.
- d. As habitats and corridors for woodland birds, mammals, and other wildlife.
- e. As recreation resources for hunters, bird watchers, campers, walkers, equestrians, picnickers, and other related outdoor activities.
- f. As visual buffers between areas of development and adjacent roads and properties.

1. Because of their resource values, all woodlands on any tract proposed for subdivision or land development shall be evaluated by the applicant to determine the extent to which such woodlands should be designated partly or entirely as Greenway or development lands. Projects that are required to obtain a PA DEP National Pollution Discharge Elimination System (NPDES) Permit for stormwater discharges associated with construction activities can receive stormwater volume credits for protecting existing woodland areas. Evaluation criteria shall include:

- a. Configuration and size.
- b. Present conditions, i.e., stocking, health and species composition.
- c. Site potential, i.e., the site's capabilities to support woodlands, based upon its topographic, soil and hydrologic characteristics.
- d. Ecological functions, i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats.
- e. Relationship to woodlands on adjoining and nearby properties and the potential for maintaining continuous woodland areas.

2. The evaluation of the tract's woodlands shall be undertaken by a forester, landscape architect, horticulturist or another qualified professional acceptable to the Township, which is required to be submitted as a report and made a part of the application for a preliminary plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of woodland areas accompanied by a report addressing the criteria in paragraph one (1) above.

3. In designing a subdivision and land development plan for any tract, the applicant shall be guided by the following standards:

a. Healthy woodlands exceeding one (1) acre shall be preserved and designated as Greenway areas, to the maximum extent possible. Proposed site improvements shall be located, designated and constructed to minimize the loss or degradation of woodland areas.

b. Subdivisions shall be designed to preserve woodlands along existing roadways, property lines and other features occurring within a site such as streams, swales, stone fences and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, under story and canopy vegetation.

c. Disturbance or removal of woodlands occupying environmentally sensitive areas shall be undertaken only when approved by the Board and on a limited, selective basis to minimize the adverse impacts of such actions. This shall include but not necessarily be limited to, vegetation performing important soil stabilizing functions on wet soils, stream banks and sloping lands.

d. No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems, stormwater infiltration testing or if associated with surveying activities) shall be permitted on a site before preliminary plan approval is granted. The determination of sight distance clearances along roadways shall be made graphically and not by clearing on-site prior to preliminary plan approval.

E. Upland Rural-Agricultural Areas

These areas comprise fields, pastures, meadows, and former agricultural areas in early stages of woodlands succession, with fences, stone walls, tree copses and hedgerows, typically bordered by stream valleys and upland woodlands. These comprise the Township's historic working landscape, dotted with historic houses, barns, and other structures. They give the Township its rural character. They also have the greatest concentration of prime agricultural soils. Because of their openness and high visibility, development in these areas is likely to be most readily seen and disruptive to the historic landscape. They may possess important habitat for wildlife, in conjunction with nearby woodlands and stream valleys.

1. Several elements of these working landscapes lend themselves to incorporation into the Township's Greenway network. These include prime agricultural soils and natural features which visually punctuate the landscape, such as hedgerows, tree copses, stone walls, and visually prominent places such as knolls and hilltops.

2. These areas can also accommodate development, with preferred locations being the non-prime agricultural soils and lower topographic settings where development will be visually less obtrusive. Compact clustered residential designs, with coordinated architectural and landscape architectural themes, are encouraged in highly visible locations where future development cannot be avoided (such as at the far edge of open fields).

F. Slope Areas

Moderately sloping lands (15 to 25 percent) and steeply sloping lands (over 25 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

1. Areas of steep slope shall be preserved in accordance with Section 402 and as required below.
2. All grading and earthmoving on slopes exceeding fifteen (15) percent shall be minimized.
3. No site disturbance shall be allowed on slopes exceeding twenty five (25) percent unless the design engineer can demonstrate that the proposed slopes can be stabilized; however, grading in these areas should be avoided completely if at all possible. Individual lot grading plans are required for all lots in which any proposed grading is to take place on existing slopes that exceed twenty five (25) percent.
4. Grading or earthmoving on all sloping lands of fifteen (15) percent or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds ten (10) feet, except where it could be proved to the Township no reasonable alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed fifteen (15) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

G. Significant Natural Areas and Features

Natural areas containing rare or endangered plants and animals, as well as other features of natural significance, exist throughout the Township. Some of these have been carefully documented, e.g., by the Pennsylvania Natural Diversity Inventory, whereas for others, only their general locations are known. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features either identified by the Township or by resource inventories of individual subdivision tracts (as required in Section 502) by incorporating them into proposed Greenway areas or avoiding their disturbance in areas proposed for development.

H. Historic Structures and Sites

Pennsylvania's documented historical structures begin with the arrival of pioneers in the Commonwealth in the late 18th century. Black Creek Township's historic records are maintained by the Pennsylvania Historical and Museum Commission (PHMC).

1. All subdivisions and land developments shall comply with the Historic Preservation Standards of the PHMC.
2. Plans requiring subdivision and land development approval shall be designed to preserve existing historic structures of all classes. The preservation of an existing historic structure shall include the preservation of the landscape immediately associated with and significant to that structure, to preserve its historic context. Where, in the opinion of the Township, a plan will have an impact upon a historic structure, the developer shall mitigate that impact to the satisfaction of the Township by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means.
3. Township participation, review, and approval of the applicant's interaction with the PHMC with regard to the preservation of historic structures may be required for the PA DEP approval of a proposed sewage disposal system.

I. Historic Rural Road and View Corridors

All applications for subdivision and land development shall attempt to preserve the scenic visual corridors along such roads by incorporating them into Greenway areas or otherwise providing for building setbacks and architectural designs to minimize their intrusion. In instances, where such designs fail to satisfactorily protect corridors, applicants will be required to provide landscape buffers to minimize their adverse visual impacts.

J. Trails

1. When a subdivision or land development proposal is traversed by or abuts an existing trail or bike path customarily used by pedestrians and/or equestrians, the applicant is encouraged to make provisions for continued recreational use of the trail however maintaining an existing trail is not a requirement of this Ordinance.
2. If the applicant chooses to alter the course of an existing trail within the tract for which development is proposed the alteration should consist of the following, if feasible:
 - a. The points at which the trail enters and exits the tract remain unchanged.
 - b. The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture.
 - c. The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.
3. When trails are intended for public or private use, they shall be protected by a conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of ten (10) feet. The language of the conservation easement shall be to the satisfaction of the Township upon recommendation of the Township Solicitor.
4. The land area permanently designated for trails for public use may be credited toward the open space requirement.
5. An applicant may propose and develop a new trail. If said trail is available for use by the general public and connects with an existing trail, the land area protected for said trail may be credited toward the open space requirement.

6. Trail improvements shall demonstrate adherence to principles of quality trail design.
7. Trails shall have a vertical clearance of no less than ten (10) feet.
8. Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall be less than four (4) feet or greater than eight (8) feet.
9. No trail shall be designed with the intent to accommodate motorized vehicles.

SECTION 402 DESIGN PROCESS FOR RESIDENTIAL SUBDIVISIONS WITH GREENWAY LANDS

A. Resource Inventory and Analysis. The tract’s resources shall be delineated on an Existing Resources and Conditions Plan, as required in Section 502.C.

B. Four Step Design Process. Following the resource inventory and analysis, all residential subdivisions with Greenway lands shall generally follow a four-step design process as described below. Applicants will be required to document the design process as described in Section 502.E.

1. Step 1: Delineation of Greenway Lands and Development Areas

Greenway lands and development areas shall be delineated according to the following procedures, as illustrated below, using as an example, a 50-acre subdivision. Black Creek Township requires a **minimum of twenty percent (20%) of the Total Tract Area** to be comprised of Greenway Lands (Combination of “Class A” and “Class B” Greenway Lands).

Step 1: Determine Total Tract Area: 50 acres

Step 2: Determine Acreage of Total Greenway Areas Required (50 acres x 0.20) 10 acres

Step 3: Determine Acreage of Development Area 40 acres

Step 4: Determine “Class A” Greenway Areas (Land considered unsuitable for development) 5 acres

Step 5: Determine Acreage of “Class B” Greenway Areas Required 5 acres

a. The following lands shall be classified as “Class A” Greenway Areas and shall be deducted from the total tract area to determine the acreage of “Class B” Greenway Areas required:

1. The regulatory 100-year floodplains.
2. Buffer zones of at least seventy five (75) feet in width from the top of the banks along all perennial and intermittent streams.
3. Open bodies of water.
4. Wetland areas (including the 50’ wetland buffer).
5. Populations of endangered/threatened species or habitat for such species as determined by the PNDI search.
6. Slopes over twenty five (25) percent.

b. Additional minimum acreage requirements for total Greenway Areas consist of “Class B” lands. In the example, a minimum of 10% of the total tract (or 5 acres) must be “Class B” Greenway lands.

c. Total Greenway Area requirements are the sum of Class A and B lands which, in the example, comprise 10 acres. Total Greenway Area requirements are to be a minimum of twenty (20) percent of the Total Tract Area.

d. If actual acreage of “Class A” Greenway Areas available on site is equal to or exceeds twenty (20) percent of the total tract area there shall be no “Class B” Greenway Areas required.

e. All Greenway Areas shall be connected to a public right of way by a greenway corridor, easement, or right of way of a minimum width of twenty (20) feet.

f. The locations and boundaries of “Class A” lands shall follow the actual boundaries of the lands as indicated in Section 402.B.1.a.

g. The locations and boundaries of “Class B” lands shall be based upon the applicant’s analysis of the tract’s resource features, using the design standards in Section 403. The applicant shall also be guided by any recommendations provided by the Township.

h. Development areas constitute the remaining lands of the tract outside of the designated Greenway Areas, which in the example consist of 40 acres, where house sites, streets and lots are to be delineated in accordance with steps 2, 3, and 4 below.

i. The following site improvements are allowed in “Class A” Greenway Lands if all applicable permits are obtained:

1. Road and driveway crossings.
2. Stormwater conveyance facility outfalls.
3. Stormwater piping and utility crossings.
4. Trails.
5. Passive Recreation Areas

j. The following site improvements are allowed in “Class B” Greenway Lands if all applicable permits are obtained:

1. Trails.
2. Passive recreational areas.
3. Landscaped stormwater infiltration/detention facilities.
4. Underground community wastewater disposal systems.
5. Underground utilities and stormwater piping.
6. Active recreational areas which are less than twenty (20) percent of total “Class B” area.
7. Selective timbering.
8. Agriculture, horticulture, silviculture or pasture uses if such uses existed on the property in the past.

2. Step 2: Location of House Sites

a. Applicants shall identify house site locations in the tract's designated development areas, designed to: fit the tract's natural topography, served by adequate water and sewerage facilities, and provide views of and access to adjoining Greenway areas (without encroaching upon them in a manner visually intrusive to users of such areas). House sites should be generally located not closer than twenty five (25) feet from Class A and Class B Greenway lands.

b. House sites shown in the Preliminary Plan may be indicated as tentative and shown as building envelope locations. However, house site locations inconsistencies exceeding fifty (50) feet between the Preliminary and Final Plans may serve as the basis for denial of the Final Plan by the Board unless the applicant can demonstrate that the new locations are generally consistent with the Preliminary Resource Conservation Plan.

3. Step 3: Alignment of Streets

a. With house site locations identified, applicants shall delineate a street system to provide vehicular access to each house in a manner conforming to the tract's natural topography and providing for a safe pattern of circulation and ingress and egress to and from the tract.

b. Streets shall avoid or at least minimize adverse impacts on the Greenway areas. To the greatest extent possible, wetland crossings and traversing existing slopes over fifteen (15) percent shall be avoided.

c. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the Township and to facilitate easy access to and from homes in different parts of the tract (and on adjoining parcels).

4. Step 4: Design of Lot Lines

Lot lines for the subdivision should be drawn as the last step in the design procedure. They should follow the configuration of house sites and streets in a logical and flexible manner.

SECTION 403

GREENWAY DESIGN REVIEW STANDARDS

A. Resources to be conserved. The design of Greenway lands in any subdivision or land development plan shall reflect the standards set forth in Section 401 and, to the fullest extent possible, incorporate any of the following resources if they occur on the tract:

1. Stream channels, floodplains, wetlands, swales, springs, and other lowland areas, including adjacent buffer areas which may be required to insure their protection.
2. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.
3. Moderate to steep slopes, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.
4. Health woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.
5. Hedgerows, groups of trees, large individual trees of botanical significance, and other vegetational features representing the tract's rural past.
6. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Pennsylvania Natural Diversity Inventory.
7. Historic structures and sites.
8. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic viewsheds as seen from public roads (particularly those with historic features).
9. Existing trails connecting the tract to other locations in the Township.

B. Other Design Considerations. The configuration of proposed Greenway lands set aside for common use in residential subdivisions shall comply with the following standards:

1. They shall be free of all structures except historic buildings, stone walls, structures related to greenway uses and improvements as specified in Section 402.

2. They shall generally not include parcels smaller than one (1) acre, have a length-to-width ratio of less than 6-1, or be less than fifty (50) feet in width, except for such lands specifically designed as neighborhood greens, playing fields, trail links, or access corridors.
3. They shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe and convenient pedestrian access to Greenway land.
4. They shall be suitable for recreational uses to the extent deemed necessary by the Township, without interfering with adjacent dwelling units, parking, driveways, and roads.
5. They shall be interconnected wherever possible to provide a continuous network of Greenway lands within and adjoining the subdivision.
6. They shall provide buffers to adjoining parks, preserves or other protected lands.
7. They shall provide for pedestrian pathways for use by the residents of the subdivision. Consideration shall be given to providing for public access on such trails if they are linked to other publicly-accessible pathway systems within the Township. Provisions should be made for access to the Greenway lands, as required for land management and emergency purposes.
8. They shall be undivided by public or private streets, except where necessary for proper traffic circulation.
9. They shall be suitably landscaped either by retaining existing natural cover and wooded areas and / or according to a landscaping plan to protect Greenway resources.
10. They shall be made subject to such agreement with the Township and such conservation easements duly recorded in the office of the County Recorder of Deeds as may be required by the Township for the purpose of preserving the common open space for such uses.
11. They shall be generally consistent with the Township's Comprehensive Plan, if such plan exists at the time of plan submittal, and the Luzerne/Lackawanna Comprehensive Plan.

C. Ownership and Maintenance. Applicants shall demonstrate compliance with Greenway ownership and maintenance standards of Section 707 herein. A maintenance agreement for the greenways must be submitted that designates ownership and all maintenance responsibilities of the greenways to the developer or a homeowners association.

SECTION 404 RESOURCE CONSERVATION STANDARDS FOR SITE PREPARATION AND CLEAN-UP

A. Monitoring Construction Activities. The Township shall have the right to monitor on-site construction activities relative to the preservation and protection of historic structures and to the possible discovery of unrecorded archeological resources.

B. Conservation Practices During Site Preparation and Clean-Up

1. Protection of Vegetation from Mechanical Injury. Where earthwork, grading, or construction activities will take place in or adjacent to woodlands, old fields, or other significant vegetation or site features, the Township may require that the limit of disturbance be delineated and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to commencing of and shall be maintained throughout the period of construction activity.

2. Protection During Clean-up. Fences and barriers placed around woody vegetation during construction shall be removed if they could impede the growth and maintenance of such vegetation.

3. Protection of Vegetation from Grading Change. Grade changes to occur at any location of the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.

4. Protection of Vegetation from Excavations.

a. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be minimized.

b. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible, avoiding soil compaction. No more than fifty (50) linear feet of trench shall be open at the end of any workday.

5. Protection of Topsoil

- a. Prior to any grading operations all topsoil in the area to be disturbed shall be removed from the area and stored at an alternate location on site. All removed topsoil shall be re-used on site wherever possible.
- b. Topsoil removed shall be redistributed and stabilized following the establishment of required grades for a project or project phase. All exposed earth surfaces shall be stabilized in accordance with the Pennsylvania Erosion and Sediment Pollution Control Manual, as amended.
- c. Grading and earthmoving operations shall be scheduled to minimize site disturbance during the period from October 15th to April 15th when revegetation of exposed ground surfaces is difficult.

ARTICLE V

PLAN CONTENT REQUIREMENTS

SECTION 500 PURPOSES AND APPLICABILITY

The provisions of this Article shall apply to all subdivision and land development applications in Black Creek Township.

SECTION 501 SKETCH PLAN

A. When a Sketch Plan is submitted to the Board it will serve as a diagrammatic basis for informal discussion with the Planning Commission as to the intended use and arrangement of a proposed subdivision or land development.

B. The applicant may submit whatever information he deems useful; however, to facilitate the fullest possible response from the Planning Commission, the applicant is encouraged to submit the following items:

1. Name and address of owner, applicant and subdivider/developer;
2. Name and address of the applicant's engineer, surveyor, planner, architect, or landscape architect, if applicable;
3. Scale of sketch and graphic scale; (the plan need not be exact scale, nor are precise dimensions required, but it should be clearly titled, "Sketch Plan");
4. Approximate tract boundaries;
5. North arrow;
6. Location map, zoning district, and floodplains and wetlands, if any;
7. Streets on and adjacent to the tract;
8. Topographical and physical features, including existing structures, wooded areas, hedgerows and other significant vegetation, steep slopes, soil types, ponds, streams within fifty (50) feet of the tract, and existing rights-of-way and easements;
9. Schematic layout indicating a general concept for land conservation and development;

10. In the case of land development plans, proposed general layout, including building locations, parking lots, driveways, water supply, sewer service, general stormwater management design and open space.

SECTION 502

PRELIMINARY PLAN REQUIREMENTS

A detailed preliminary plan shall consist of and be prepared in accordance with the following:

A. Drafting Standards

1. All plans shall be drawn to the scale no smaller than 1"=100', unless otherwise approved by the Township Engineer.
2. All dimensions shall be set in feet and decimal points thereof, bearing in degrees, minutes and seconds (errors of closure shall not be less than one point per 10,000).
3. Each plan sheet shall be numbered and shall show its relationship to the total number of sheets.
4. All plans shall bear an adequate legend to indicate clearly which features are existing and which are proposed.
5. All plans submitted shall be made on sheets 24"x 36".
6. Where it is necessary to use more than one sheet for a plan, the layout shall be such that any lot shall be complete on one (1) plan and no lot shall be split on two (2) sheets. In such cases, a master plan shall be submitted as part of the application.
7. A north arrow, graphic scale, written scale shall be required on all applicable plans.
8. A title block shall be required on all plans with the name of the proposed development, title of the specific plan, date of the original submission, date of all subsequent submissions, plan preparers name and municipality in which the development is to be located.

B. Area wide Context Plan – Major Subdivisions Only

A plan showing the location of the proposed subdivision within its neighborhood context shall be submitted for all major subdivisions. Such plans shall be at a scale not less than 1" = 2000' nor greater than 1" = 1000', and shall show the relationship of the subject property to natural and man-made features that exist in the immediate neighborhood, such as streams, wetlands, ridge lines, public roads, utility easements and rights of ways, public land, and land protected under conservation easements.

C. Existing Resources and Site Analysis Plan – Major Subdivisions Only.

The Existing Resources and Site Analysis Plan shall be prepared for all major subdivisions to provide the developer and the Township with a comprehensive analysis of existing site conditions. The Township shall review the Plan to assess its accuracy, thoroughness, and the manner in which the information generated has been applied to the design of the subdivision or land development. The following information shall be included in this Plan:

1. Geologic formations, based on available published information or more detailed data obtained by the applicant.
2. Topography, the contour line intervals of which shall not be less detailed than five (5) feet for hilly sites, and two (2) feet for gently rolling or relatively flat sites. The determination of appropriate contour intervals shall be made by the Township. Slopes between 15 and 20 percent and exceeding 20 percent shall be clearly indicated. Topography for major subdivisions shall be prepared by a professional land surveyor from an actual field survey of the site or from aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
3. The location and delineation of ponds, streams, and natural drainage swales, as well as the floodplain and wetland areas.
4. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Soil Conservation Service in the published soil survey for Luzerne County, Pennsylvania.
5. Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, open fields, hedgerows, woodlands and wetlands. The actual canopy line of existing trees and woodlands shall be shown. Vegetative types shall be described by plant community, relative age and condition.

6. Ridge lines and delineation of watersheds on the property shall be identified.
7. The location and dimensions of all existing streets, roads, buildings, utilities, and other man-made improvements.
8. Locations of all historically significant sites or structures on the tract and on any abutting tract.
9. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
10. All easements and other encumbrances of property which are or have been filed of record with the Recorder of Deeds of Luzerne County shall be shown on the plan.

**D. Preliminary Resource Conservation Plan – Major Subdivision
Only**

1. A Preliminary Resource Conservation Plan shall be prepared to categorize the impacts of the proposed subdivision on those resources shown on the Existing Resources and Site Analysis Plan (as required under Section 502C). All proposed improvements, including but not necessarily limited to grading, fill, streets, buildings, utilities and stormwater detention facilities, as proposed in the other Preliminary Plan documents, shall be taken into account in preparing the Preliminary Resource Conservation Plan.

2. Using the Existing Resources and Site Analysis Plan as a base map, impact areas shall be mapped according to the following categories: (1) primary impact areas, i.e., areas directly impacted by the proposed subdivision, (2) secondary impact areas, i.e., areas in proximity to primary areas which may be impacted, and (3) designated protected areas, either to be included in a proposed Greenway or an equivalent designation such as dedication of a neighborhood park site.

3. The applicant shall submit an accompanying Resource Assessment Report divided into the following sections: (1) description of existing resources (as documented in Section 502 C, (2) impacts of the proposed subdivision on existing resources, correlated to the areas depicted in the Final Resource Conservation Plan, (3) measures taken to minimize and control such impacts both during and following the period of site disturbance and construction. The qualifications and experience of the preparer of this report shall be provided.

E. Four-Step Design Process for Major Subdivisions

All preliminary plans shall include documentation of a four-step design process in determining the layout of proposed Greenway lands, house sites, streets and lot lines, as described below.

Step 1: Delineation of Greenway Lands

Proposed Greenway lands shall be designated using the Existing Resources and Conditions Plan as a base map and complying with Section 402 and 403 herein. Class A Greenway areas shall be delineated comprising areas which are typically considered unsuitable for development. In delineating Class B Greenways, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed Greenway, in consultation with the Planning Commission and Township Engineer. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, Class B lands shall be delineated to meet at least the minimum acreage requirements for such lands and in a manner clearly indicating their boundaries as well as the types of resources included within them. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for Greenway areas on the tract.

Step 2: Location of House Sites

Potential house sites shall be tentatively located, using the proposed Greenway lands as a base map as well as other relevant data on the Existing Resources and Conditions Plan such as topography and soils. House sites should generally be located not closer than 25 feet from Class A Greenway lands and 25 feet from Class B lands, taking into consideration the potential negative impacts of residential development on adjoining Greenway areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

Step 3: Alignment of Streets

Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, complying with the standards in Article VI herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed Greenway lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the Township and to facilitate access to and from homes in different parts of the tract (and adjoining parcels).

Step 4: Design of Lot Lines

Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.

F. Preliminary Subdivision or Plot Plan

The plan shall include the following:

1. A location map for the purpose of locating the site to be subdivided or developed, at a scale of not less than 1000 feet to the inch, showing the relation of the tract to adjoining property and to all streets and municipal boundaries existing within 1,000 feet of any part of the property proposed to be subdivided or developed.
2. A map or series of maps, prepared according to Section 502A, above, with accompanying narrative as needed, showing the following:
 - a. Proposed subdivision or land development name or identifying title and deed book and page reference(s) applicable to the subject property.
 - b. The Property Identification Number (PIN).
 - c. A certification block containing the name and address of the landowner and subdivider of the tract or of his authorized agent, if any. A copy of the deed for the property must be submitted to verify ownership.
 - d. Name, license number, signature, seal and address of the registered surveyor responsible for the plan.

e. Zoning information including: applicable zoning district, lot area and bulk regulations, minimum building setbacks, proof of any variance or special exception which may have been granted and conditions, thereof, and any zoning boundaries that traverse or are within 100 feet of the tract.

f. Tract boundaries with bearings and distances and proposed lot line locations with distances. The gross tract acreage and adjusted tract area shall be shown. For each lot created, including areas to be dedicated to public use, the lot area and minimum lot area shall be indicated.

g. Original date of preparation, revision dates, north arrow, graphic scale and written scale.

h. The names of all owners of all adjacent lands with appropriate deed references and tax parcel identifications.

i. The names, locations and dimensions of all existing street right-of-ways and paving widths, including those approved or recorded but not constructed, existing gas, electric, cable, telephone and petroleum transmission lines, water courses, buildings, structures, sources of water supply, water mains, sewer mains, easements, trails and any other significant features, man-made and natural within the property proposed to be developed or subdivided and within 50 feet of the tract boundaries. Significant natural features shall include information shown on the Existing Resource and Site Analysis Plan.

j. Locations of all historically significant sites or structures on the tract and on any abutting tract.

k. Location, if any, of all parks, playgrounds, and other areas dedicated or reserved for public use, with any conditions governing such use.

l. A full plan of the development, showing the proposed lot layout with lot areas indicated in square feet and acres. Lots shall be numbered in a consecutive order with all lot line bearing and distances shown to demonstrate to the Township how the proposed layout compares to zoning requirements.

m. Minimum building setback lines.

n. All existing and proposed easements and right-of-ways.

o. When a tract is subdivided into parcels large enough to permit resubdivision of the parcels, a sketch layout shall be included showing future potential subdivision of the parcels to ensure that subdivision may be accomplished in accord with current ordinances and with appropriate access. Submissions and review of the sketch plan described in this section shall not constitute approval of the future subdivision shown thereon.

p. The location of all percolation tests and test pits approved by Township Sewage Enforcement Officer and/or PA DEP on every proposed lot. Also existing and proposed individual on-lot water well locations must be shown.

q. Signature blocks for Black Creek Township Planning Commission, Board of Supervisors, Township Engineer, and Luzerne County Planning Commission shall be provided.

r. A note placed on the plan indicating where noncompliance occurs relative to zoning, subdivision, building, and other applicable Township ordinances, and a citation of the date and content of any decision concerning a Special Exception, Variance, or Conditional Use and any request for a waiver.

G. Preliminary Land Development Plan

The plan shall include the following:

1. Historic resources, trails and significant natural features, including topography, areas of steep slopes, floodplains, wetland areas, wetland buffers, swales, rock outcroppings, vegetation, existing utilities, etc., as indicated on the Existing Conditions Plan.
2. Existing lot lines, proposed lot lines, existing and proposed easements / right-of-ways.
3. The location, width and tentative names of all proposed streets and street right-of-ways including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas.
4. The location of all existing and proposed stormwater management facilities. Final design of all stormwater management facilities must be completed on the preliminary plan.
5. Limit of disturbance line.

6. If any portion of the land to be subdivided or developed lies partly in another municipality or adjoins another municipality, the applicant shall submit information concerning the location and design of streets, layout and size of lots and provisions of public improvements on land within the adjoining municipalities. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of approval of this information by appropriate officials of the adjoining municipalities also shall be submitted to Black Creek Township by the applicant.

7. Where the applicant proposes to install the improvements in phases, he/she shall submit with the preliminary plan, pursuant to Section 508.4 of Act 247 as amended, a delineation of the proposed sections and a schedule of deadlines within which applications for final approval of each section are intended to be filed.

8. Typical street cross-section drawing(s) for all proposed streets shall be shown, including details relating to thickness, crowning, construction techniques, driveway construction, and paving materials.

9. The location of proposed landscaping, plus locations of existing vegetation to be retained.

10. Signature blocks for the Black Creek Township Planning Commission, Board of Supervisors and the Luzerne County Planning Commission shall be provided.

11. Profile sheets for all proposed streets and driveways within the tract. Such profiles show at least the following information, properly labeled.

- a. Existing natural profile along the proposed centerline of each street.
- b. Proposed finished grade of the centerline of each proposed street.
- c. The length of all vertical curves and vertical sight distance provided at each vertical curve.
- d. Existing and proposed underground sanitary sewer lines, manholes, water lines, electric, telephone, cable and gas lines.
- e. Existing and proposed storm water management facilities and drainage improvements.

- f. The proposed speed limit and design speed of the proposed roadway.
12. The following data for the cartway edges (curb lines) and right-of-way lines of all recorded (except those which are to be vacated) and / or proposed streets and sidewalks within or abutting the property.
- a. The length (in feet and hundredths of a foot) of all straight lines and of the radius and the arc (or cord) of all curved lines (including curved lot lines).
 - b. The width (in feet) of the cartway, existing right-of-way and of the ultimate right-of-way, and (in degrees, minutes and seconds) of the delta angle of all curved lines, including curved lot lines.
 - c. The width, location, thickness and construction material for all sidewalks or footpaths to be provided.
13. A note must be on the plan stating that no construction shall occur within the right of way of any adjacent roadway unless the applicable Highway Occupancy Permit is obtained for said construction.
14. If required by the Supervisors, a plan, details and specifications of street lights to be installed, together with the necessary contract for street light installation.
15. Final design of all stormwater management facilities.
16. Where off-site or central sewer service is to be provided, the final design & locations of all facilities, including, but not limited to, sewer mains (size, material and slope), manholes (with rim and invert elevations), backfill and bedding specifications, pumping stations, laterals and sewage treatment facilities.
17. Where off-site or central water service or water supply is to be provided, the final design, location and size of water service facilities within the subdivision, shall be shown, including proposed well locations, water mains (size and material), storage tanks, reservoirs, pumps, backfill and bedding specifications, valves, fire hydrants, reducers, aquifer testing, water treatment methods and chemical handling methods. The plan shall contain a statement that the placement of fire hydrants and the components of the system have been reviewed by the Weston Fire Chief and that the system complies with Section 617, and the fire fighting methods and equipment utilized by the regional fire companies.

18. If any proposed or existing bridges are to be utilized in some way by the proposed project the bridges must be approved by all agencies with jurisdiction thereof, such as the Pennsylvania Department of Environmental Protection, Department of Transportation and/or Luzerne County. Also, if any existing bridges are to be utilized, a Structural Certification of the bridge demonstrating its safety and maximum permissible load must be submitted to the Township and must be completed by a certified Structural Engineer.

19. Proposed driveway locations and construction details must be shown on the plans.

20. A complete permit application for the following must be either submitted to or approved by the applicable review agency prior to preliminary approval:

a. A “complete” Sewage Facilities Planning Module Package containing all required items listed on the module checklist must be submitted to PA DEP for review.

b. The National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities must be approved by the Luzerne Conservation District and/or PA DEP.

c. All Waterway Encroachment and Obstruction permits must be approved by PA DEP or the US Army Corps of Engineers.

d. All access and utility Highway Occupancy Permits must be approved by PennDOT.

e. All access and utility Highway Occupancy Permits must be approved by Luzerne County.

f. PA Public Water Supply Permits must be approved by PA DEP.

g. Water Quality Management Permits for Sewer Extension and Pump Stations must be approved by PA DEP.

21. Construction details for all required improvements must be shown on the plans.

22. An estimate of the cost to construct all improvements in the subdivision / land development by a registered engineer must be submitted to the Township and approved by the Township Engineer.

23. Individual on-lot grading plans must be provided for all lots in which any proposed grading is to take place on existing slopes that exceed 20 percent.

24. Existing and proposed contour lines at an interval of not more than 2 feet must be shown on the plans.

25. Location and elevation of the datum to which contour elevations refer. Also, the location of the benchmark must be shown.

26. A parking space calculation, if applicable, showing the number of parking spaces required by the Zoning Ordinance and the number of parking spaces proposed on the plan.

27. All modification requests.

28. The general purpose of the subdivision and/or land development.

29. Wetland boundary lines, wetland buffer lines, stream buffer lines, 100 year floodplain lines and 100 year floodway lines.

30. The PA one call system incorporated symbol, note and project reference number.

31. The Americans with Disabilities Act of 1990 (ADA) disclaimer note.

32. The location of all existing and proposed street markings and signs. The location of all street name signs, all stop signs and all speed limit signs, at a minimum, must be shown on the plans.

33. PA DOT Highway Occupancy Plans.

H. Groundwater Conservation Plan

A plan for the conservation of groundwater resources shall be submitted. The plan, at a minimum, shall comply with the standards and criteria contained in Section 401 B. The plan shall be comprised of a narrative with supporting calculations and drawings to fully explain the plan and its proposed implementation.

I. Preliminary Greenway Ownership and Management Plan

The boundaries, acreage, proposed ownership and maintenance standards of all proposed Greenway areas shall be shown. This plan is required for all major subdivisions.

J. Proof of Ownership

A deed or agreement of sale evidencing that the applicant is the legal or equitable owner of the land to be subdivided or developed shall be submitted.

K. Title Report

The applicant shall provide a current title report prepared by a title insurance or title abstract company showing all easements and encumbrances of record regarding the property which is to be subdivided or developed.

L. Preliminary Engineering/Surveying Certification

A certification statement must be added to the plan and signed by the Professional Engineer/Surveyor stating that the plans, to the best of his/her knowledge, are in compliance with the Ordinances of Black Creek Township.

M. Stormwater Management and Erosion and Sedimentation Control Plans

Final plans for the management of stormwater runoff, including the control of erosion and sedimentation during the course of site preparation or any other land disturbance, shall be submitted. The plan shall, at minimum, comply with the standards, and criteria contained in Section 620, the Black Creek Township Stormwater Management Ordinance, PA Code Title 25 Chapter 102 and NPDES Permit Post Construction Stormwater Management Requirements. The plan shall be comprised of drawings, calculations, and accompanying narrative containing but not limited to the following:

1. Existing condition information, including streams, swales, ridgelines, soils, vegetative conditions, and existing facilities, etc., shall be shown as on the Existing Conditions Plan.
2. Proposed earthmoving, grading, permanent stormwater management facilities, and temporary erosion and sedimentation control facilities as shown on the Improvements Construction Plan.

3. The narrative shall include a description of existing site characteristics, stormwater conditions and flow, and off-site considerations affecting existing or future conditions on the site. The narrative shall describe the nature of the proposed site development and improvements and shall demonstrate how the stormwater management system will meet the design standards and criteria outlined in Section 620 and the Black Creek Stormwater Management Ordinance. Complete design calculations and construction specifications shall be included.
4. Notation of ownership and responsibilities for maintenance of Stormwater Management structures and facilities.
5. A suitable map of the total watershed. (A U.S.G.S. quadrangle map is sufficient.)

N. Greenway Ownership and Management Plan

Using the Preliminary Plan as a base map, the boundaries, acreage, and proposed ownership of all proposed Greenway areas shall be shown. A narrative report shall also be prepared indicating how and by whom such Greenway areas will be managed. This plan is required for all major subdivisions.

O. Landscape Plan

A landscape plan which meets all requirements of Section 625 shall be prepared by a landscape architect registered in the Commonwealth of Pennsylvania or another qualified professional deemed acceptable by the Township.

P. Additional Approvals, Certificates and Documents

1. A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner or owners of the property, to the effect that the owner or owners consent to the subdivision or land development shown on the plan.
2. Certification of the engineer, land surveyor, landscape architect or land planner who prepared the plan that the plans are in conformity with zoning, building, subdivision and other applicable Township ordinances and regulations. In any instance where such plans do not conform, evidence shall be presented that an exception or waiver has been authorized. Certification blocks must be contained on all applicable plans as deemed appropriate by the Township Engineer.

3. A Traffic Impact Study will be required to be submitted to and approved by the Township in conformance with the standards outlined in Section 626 if the project meets the requirements for a study as outlined in Section 626.1.

4. A copy of the wetland delineation report for the entire parcel prepared by a qualified professional. If a wetland delineation report was completed more than five years prior to the initial complete submission to the Township the report will not be accepted.

5. A copy of the water system design calculations and aquifer tests that is required for the project, if applicable.

6. A copy any pressure sewer system design calculations, if applicable.

SECTION 503 FINAL PLAN

Final plans shall conform in all important details to the approved preliminary plans, including any conditions specified by the Board. If the Stormwater Management Plan and Soil Erosion and Sediment Control Plan were approved during the preliminary plan review process the plans do not need to be re-submitted during the final plan process. A detailed final plan shall consist of and be prepared in accordance with the following:

A. Drafting Standards.

All drafting standards as required in Section 502A shall apply.

B. Existing Resources and Site Analysis Plan

A plan as stipulated in Section 502C consistent with the terms of preliminary plan approval and modified as necessary to reflect the proposal for final approval.

C. Final Resource Conservation Plan

1. This plan shall comply with all of the requirements for the Preliminary Resource Conservation Plan, as set forth in Section and 502C to reflect all proposed improvements described in the other Final Plan documents as required under Section 503 herein.

2. The applicant must comply with Section 502.C.2.

D. Final Subdivision Plan

A plan that shall contain:

1. All information required on Sections 502F.
2. Sufficient data to determine readily the location, bearing and length of every lot and boundary line and to produce such lines upon the ground, including all dimensions, angles, and bearings of the lines. The gross tract acreage and adjusted tract area shall be shown. For each lot created, including areas to be dedicated to public use, the lot area and minimum lot area shall be indicated.
3. For residential subdivision, proposed driveway locations, if known, final names of all streets, as approved by the U.S. Postal Service, the regional fire departments and Luzerne County 911. Furthermore all proposed house numbers as assigned by the Board and Luzerne County 911 shall be shown. It is the responsibility of the applicant to submit the proposed road names to all required review agencies.
4. Permanent concrete control monuments and markers, as required by Section 616.
5. All existing and proposed easements and right of ways described by bearing and distance.

E. Final Land Development Plan

All information required in Section 502.G.

F. Final Stormwater Management and Erosion and Sedimentation Control Plan

All information required in Section 502.F.

G. Final Greenway Ownership and Management Plan

The boundaries, acreage, and proposed ownership of all proposed Greenway areas shall be shown. A narrative report shall also be prepared indicating how and by whom such Greenway areas will be managed.

H. Final Landscape Plan

A landscape plan which meets all requirements of Section 625 shall be prepared by a landscape architect registered in the Commonwealth of Pennsylvania or another qualified professional deemed acceptable by the Township.

I. Additional Approvals, Certificates and Documents

1. A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner or owners of the property, to the effect that the owner or owners consent to the subdivision or land development shown on the Final Plan.
2. All offers of dedication of realty or structures and all declarations, easements and covenants governing the reservation and maintenance of undedicated open space, for the Final Plan shall be in such form as shall be satisfactory to the Board of Supervisors.
3. A copy of such deed restrictions, easements, covenants and declarations which are to be imposed upon the property to comply with the Final Plan as approved by the Board of Supervisors. All such documents shall be in such form as is satisfactory to the Board of Supervisors.
4. If applicable, copies of the homeowners' association documents, sewage management programs, water supply and distribution management programs, documents creating and governing a private wastewater company and/or private water company.
5. Evidence of approval or waiver by proper Federal, State, or County authorities as may have been required to subdivide or develop the land as proposed in the Final Plan.
6. Certification of the engineer, land surveyor, landscape architect or land planner who prepared the plan that the plans are in conformity with zoning, building, sanitation, subdivision and other applicable Township ordinances and regulations. In any instance where such plans do not conform, evidence shall be presented that an exception or waiver has been authorized.
7. Evidence of approval of all required outside agency permits for the project.

8. A Financial Guarantee or an executed Traffic Improvement Agreement for any and all Traffic Improvements as recommended by the approved Traffic Impact Study.

9. Financial Security for all required improvements.

10. An executed Improvement Agreement by the Developer and Supervisors.

11. An executed Stormwater Facility Management Agreement by the Developer and Supervisors.

12. Final payment of all required fees, including but not limited to, review fees, inspection fees, recreation fees and stormwater facility inspection fund fees.

13. All modification requests that were approved must be noted on the final plan. The note must include the section number, a brief description of the section, the actual modification that was granted and the date of the approval of the modification.

ARTICLE VI

DEVELOPMENT and DESIGN STANDARDS

SECTION 600 APPLICATION

All subdivision and land development plans approved by the Board of Supervisors must comply with the following general standards. The standards, outlined herein shall be considered minimum requirements for the promotion of the public health, safety, and general welfare. Where, in the judgment of the Board, specific conditions warrant, the Board may require that development features exceed these minimum standards.

SECTION 601 LAND AND USE REQUIREMENTS

A. Incorporated herein by reference is the Zoning Ordinance for Black Creek Township of August 3, 1970, the effective date of the original Black Creek Township Zoning Ordinance.

B. All proposed subdivisions and land developments shall comply fully with the existing zoning regulations applicable to the land, and no parcel of land shall be created either by inclusion or exclusion from a proposed subdivision, which cannot be properly utilized for a permitted use under the existing zoning regulations or merged to a lot adjoining the tract.

C. The design of subdivisions and land development shall preserve, insofar as possible, the natural terrain, natural drainage, existing topsoil and trees.

D. Land subject to hazards to life, health, or property shall not be subdivided for building purposes or developed, unless the hazards have been eliminated or unless the plans show adequate safeguard against them.

E. Wetlands, areas of hydric soils, and land within the 100 year floodway as defined by the FEMA mapping, shall not be platted for residential development or designated for such other uses as may involve danger to the health, safety, or general welfare of the citizens except as permitted by the state and federal regulations.

F. All portions of a tract being developed shall be taken up in lots, streets, public lands or other proposed uses so that remnants of landlocked areas or lots of insufficient area or dimensions pursuant to the applicable provisions of the Black Creek Township Zoning Ordinance shall not be created.

SECTION 602

BLOCKS, LAYOUT

A. The length, width, and shape of blocks shall be determined with due regard to:

1. Provision of adequate sizes for buildings of the type proposed
2. Topography
3. Requirements for safe and convenient normal and emergency vehicular and pedestrian circulation, including the avoidance of unessential intersections with major public streets.
4. Thoughtful and innovative design to create an attractive community.

B. There shall be no minimum or maximum requirements for length of blocks, except that the length(s) proposed shall not result in inappropriate traffic patterns, unnecessary disturbance to topography or other natural constraints, or any other conditions deemed unsatisfactory and/or unsafe by the Board. In design of blocks longer than 1,000 feet, special consideration should be given to access for fire protection, whether by an easement for emergency access or by other acceptable means.

C. Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots are required along a major public street, or where prevented by the size, topographical conditions or other inherent conditions of property, in which case the Board of Supervisors may approve a single tier of lots.

SECTION 603

LOTS

A. Environmental Self-Sufficiency

1. Each new dwelling created within the Township shall be individually self-sufficient for both water supply and sewage disposal, and that such systems shall be individually owned, maintained, and operated by the owners of each dwelling.

2. Every new lot created within the Township shall be capable of supporting a well, an individual on-lot septic system, and an alternative site for an individual on-lot septic system in addition to the proposed use for the lot. Exceptions to this requirement may be made by the Board only when such exceptions are clearly in the best interest of the Township, such as when individual wells or septic systems are proposed to be located on suitable soils within any undivided open space in the subdivision, or when the lot is serviced by community water and sewage disposal.

B. General Standards

1. The size, shape and orientation of lots shall be appropriate to the type of development and use contemplated. The average length to width ratio for new lots shall be no greater than 4-1 (with regard to flag lots, only the “flag” area and not the “pole” portion shall be required to meet this standard).

2. Insofar as practical, side lot lines shall be at right angles to straight public street lines or radical to curved public street lines.

3. Lot area and bulk regulations shall not be less than specified by the provisions of the Black Creek Township Zoning Ordinance for the area in which the development is located.

4. Depth and width of lots intended for non-residential uses shall be adequate for the use proposed and sufficient to provide satisfactory space for a well and on-site sewage disposal (unless community services are provided), on-site parking, loading and unloading, setbacks and landscaping as required by the Black Creek Township Zoning Ordinance.

5. If, after subdividing, there exists sub-standard remnants of land, they shall be incorporated in existing or proposed lots, or dedicated to public use, if acceptable to the Township Board. Agreements dedicating such remnants of land shall be approved by the Township Solicitor.

C. Lot Frontage

1. Minimum lot frontage, width, and area shall be controlled by the provisions of the Township Zoning Ordinance in effect at the time of submission of the Preliminary Plan.

2. All lots shall have direct access or access held in fee simple to a public or private street and shall have frontage as required by provisions of the Township Zoning Ordinance. Evidence of legal access must be provided.

3. Double or reverse frontage lots shall be avoided except where required to provide separation of residential development from major public streets or to overcome specific disadvantages of topography or orientation as noted in Section 602C.

4. All residential reverse frontage lots shall have a rear yard with a minimum depth of fifty (50) feet, measured in the shortest distance from the proposed dwelling unit to the ultimate right-of-way and shall, within such rear yard and immediately adjacent to the right-of-way, have a planting screen buffer of at least twenty five (25) feet in width, across which there shall be no right of access.

D. Building Setback Lines

The minimum building setback lines shall be in accordance with the Township Zoning Ordinance and the applicable sections of this Ordinance.

E. Wetland, Steam and Surface Water Buffer

1. A fifty (50) foot undisturbed buffer shall be provided around all wetland areas. This buffer shall be described in the deeds for the lots by bearing and distance.
2. A fifty (50) foot undisturbed buffer shall be provided around all surface water areas such as lakes, ponds, springs, etc. This buffer shall be described in the deeds for the lots by bearing and distance.
3. For all streams with mapped floodways there is to be no disturbance with the FEMA floodway line. For floodways of streams that are not shown on the FEMA mapping the floodway is assumed to be fifty (50) feet from the top of the bank of the stream on both sides of the stream however a buffer zone of seventy five (75) feet is required from the top of the banks of all streams. There is to be no disturbance within the assumed floodway area or buffer area unless all required state and federal permits are obtained.

SECTION 604

STANDARDS FOR PUBLIC STREETS

A. Proposed streets shall be properly related to such street plans or parts thereof as have been officially prepared and adopted by the Township, including recorded subdivision plans and the official map of the Township, and shall be classified according to their function.

B. Proposed streets shall further conform to such Township, County, State and Federal road and highway plans and Traffic Impact Studies as have been prepared, adopted, and filed as prescribed by law.

C. When only a portion of a tract or single holding is the subject of a subdivision or land development application, a sketch layout as required in Section 501B shall be included for the balance of the tract.

D. Thoughtful and imaginative design of streets and their relationship to the arrangement and shape of the lots is required. An important element is the blending with topography to produce curvilinear design and moderate grades. The rectilinear design of streets and lots, involving long straight sections of streets, shall be avoided whenever possible, except in "neo-traditional" designs for new village-style developments.

E. The proposed public street system shall extend existing or recorded streets at the same or greater width, as determined by the Board, but in no case at less than the required minimum width.

F. Where, in the opinion of the Board, it is desirable to provide for public street access to an adjoining property, provision of a fifty (50) foot right-of-way to be opened at the option of the Board of Supervisors, shall be made. Responsibility for street construction and dedication shall be on the developer of the adjacent property and may be required by the Board. The length of such connecting rights-of-way shall be minimized by locating proposed streets as close to the subdivision perimeter as practicable.

G. New minor public streets shall be so designed as to discourage through traffic, through the introduction of intersections with stop signs and / or a generally circuitous or indirect street pattern, but the developer shall give adequate consideration to provision for the extension and continuation of major and collector streets into and from adjoining properties.

H. Where a development abuts and intends to use an unimproved road, the developer may be required by the Supervisors to bear the cost of improving the existing unimproved road to Township specifications.

I. Wherever a development abuts or contains a major artery or public street, the Board of Supervisors may require restrictions of access to the major street by provision of reverse frontage lots.

J. The developer shall identify and describe on the plan the entire right-of-way as required by this ordinance, or as much thereof as lies within his property, along all existing public streets that traverse or abut his property.

K. All roads shall be designed for a speed at least 10 mph greater than the proposed posting of the roadway.

L. All major subdivisions of over twenty (20) proposed lots or dwelling units shall have at least two access points. If two access points are not feasible based on the natural constraints of the property the applicant must provide a secondary emergency ingress and egress. This access must be designed to accommodate the emergency vehicles of the regional fire departments and the police department having jurisdiction.

SECTION 605 WIDTH OF STREETS AND SHARED DRIVEWAYS

A. The rights-of-way of all new proposed streets and lanes shall be a minimum of fifty (50) feet.

B. The minimum cartway width of all new streets shall be as follows:

1. Single-Family Residential: Twenty (20) foot minimum paved cartway over a twenty eight (28) foot 2A material subbase.

2. Multi-Family Residential, Commercial or Industrial Park: thirty (30) foot minimum paved cartway between standard Penn Dot concrete curbs.

3. Shared driveway: Allowed to serve a maximum of two dwellings. They shall be located within a right-of-way at least 25 feet wide, and shall be not less than fifteen (15) feet in width. Concrete curbs are not required.

SECTION 606 GRADIENTS

A. On all streets, lanes, and shared driveways, there shall be a minimum centerline grade of 1%, wherever practicable, to facilitate positive drainage.

B. Centerline grades shall not exceed the following:

1. **Shared driveways**: fifteen (15.0) percent when paved, twelve (12.0) percent otherwise.
2. **Local residential street (serves less than 30 dwellings)**: twelve (12.0) percent.
3. **Collector street, Commercial or Multi-Family**: ten (10.0) percent.
4. **Street intersections and turnarounds of cul-de-sacs**: four (4.0) percent.

C. At all changes of public street grades where the algebraic difference exceeds one (1) percent, vertical curves shall be provided to permit the following minimum sight distances, measured from a point forty-two (42) inches above the pavement to a point six (6) inches above pavement:

Shared driveway:	125 feet
Local residential street:	225 feet
Collector street:	325 feet

SECTION 607

HORIZONTAL ALIGNMENT

A. Whenever public street lines are deflected in excess of five (5) degrees, connections shall be made by horizontal curves.

B. To ensure adequate sight distance, minimum centerline radii for horizontal curves shall be as follows:

Shared driveways:	50 feet
Local residential street:	230 feet
Collector street:	310 feet

C. A tangent of at least one hundred (100) feet shall be introduced between all reverse horizontal curves. PennDOT Design Manual #2 should be utilized for all designs.

SECTION 608

INTERSECTIONS

- A. Public streets shall intersect as nearly as possible at right angles, but in no event at less than an angle of seventy five (75) degrees.
- B. No more than two (2) streets shall intersect at the same point.
- C. A public street intersecting another street shall either intersect directly opposite an opposing street, or shall be separated by at least one hundred fifty (150) feet between centerlines, measured along the centerline of the street being intersected.
- D. Intersections with major collector streets shall be located not less than one thousand (1,000) feet apart, measured from centerline to centerline, along the centerline of the major collector street.
- E. Intersections shall be approached on all sides by a straight leveling area, the grade of which shall not exceed four (4.0) percent within thirty five (35) feet of the intersection of the nearest right-of-way lines. For shared driveways, the minimum leveling distances shall be ten (10) feet from the intersection of the nearest right of way lines.
- F. Public street edge of paving or curblines intersections shall be rounded by a tangent arc with a minimum radius of:
1. Twenty-five (25) feet for intersections involving only minor residential streets.
 2. Thirty (30) feet for all intersections involving a minor collector street.
 3. Thirty-five (35) feet for all intersections involving a major collector street.
- G. Public street right-of-way lines shall be parallel to (concentric with) edge of paving or curblines arc at intersections.
- H. A minimum clear sight triangle of seventy-five (75) feet, as measured from the centerline intersections of two (2) streets, shall be provided at all intersections. No physical obstruction, planting, berm or grade shall obscure vision above a height of two (2) feet in such triangle, as measured from the centerline of the intersecting street at a point ten (10) feet from the ridge of cartway of the intersecting street.
- I. Minimum clear sight distances at all intersections shall be in accordance with PennDOT standards.

J. Wherever a portion of the line of such triangle occurs behind the building setback line, such portion shall be shown on the final plan of the development, and shall be considered the building setback line.

SECTION 609 CUL-DE-SAC STREETS

A. A cul-de-sac shall not be approved wherever a through street of loop is practicable, except where the cul-de-sac is clearly the only practical design of the subdivision.

B. Cul-de-sacs permanently designed as such, which are public or private streets, shall not exceed nine hundred (900) feet in length.

C. A cul-de-sac turnaround area shall be provided with a vehicular turnaround having a right-of-way diameter not less than one hundred ten (110) feet, and a cartway diameter not less than ninety (90) feet. Where the subdivider contemplates future extension of the cul-de-sac due to phased construction of the development, a temporary turnaround without widening the right-of-way on the plat for recording, may be permitted by the Board.

D. Where the turnaround right-of-way of a cul-de-sac street approaches or abuts the tract boundary, a fifty (50) foot right-of-way width shall be extended to or provided to permit future extension of the street at full width to the adjacent property, unless future extension of a cul-de-sac street is clearly impractical, unnecessary, or undesirable.

E. There shall be a distance of at least fifteen (15) feet between the edges of driveways entering onto the cul-de-sac.

SECTION 610 STREET CONSTRUCTION

All materials entering into the construction of streets and / or roads as hereinbefore defined and all methods of construction and installation shall be in strict accordance with the requirements and specifications of the Pennsylvania Department of Transportation, Publication 408, latest edition.

A. Drainage

Storm drainage pipes, inlets, underdrains, and headwalls shall be placed prior to the final grading of the cartway. All trench bedding and backfilling within a proposed Township Right-of-Way or private road Right-of-Way to be in accordance with the latest PennDOT RC Standards for bedding and backfilling under a roadway. All drainage pipes shall have a minimum of 12 inches of cover over the top of the pipe, however, 18 inches is recommended.

B. Grading

Grading shall be completed to the full width of the right-of-way except where trees or other features are to be protected. The minimum roadway cross-slope shall be 2% and the minimum shoulder cross slope shall be 4%. No road embankment shall exceed a slope of 2 to 1 but a 3 to 1 slope shall be utilized if circumstances permit. Guide rails shall be provided where required in accordance with the standards set forth by the Pennsylvania Department of Transportation.

C. Subgrade

The subgrade within the limits of the proposed cartway shall be shaped to conform to the line, grade, and cross-section of the proposed cartway and shall be shall compacted as per Section 210, "Subgrade" of PennDOT Specifications. Backfill of trenches within the cartway and shoulder area shall be dry modified, mechanically tamped in uniform layers of not more than eight (8) inches, thoroughly compacted, ninety-five (95) percent dry volume, prior to application of the base course. Subgrade shall be sloped to correspond to the slope of the finished road surface. Before placing the base course, the subgrade shall be dressed with one (1) inch of fine aggregate, if the native subgrade soil is determined to be unsuitable by the Township Engineer.

D. Paving Specifications for roadways to be dedicated to the Township

1. Subbase Course. The sub-base course shall be constructed of stone aggregate thoroughly compacted to a depth of not less than **eight (8) inches PA DOT 2A Subbase.** The materials and construction methods shall be in strict accordance with the requirements of Section 350 -"Subbase" of PennDOT Specifications.

2. Superpave Base Course. Base course shall consist of not less than **four and one half (4.5) inches,** after compaction, of hot-mixed, hot-laid **Superpave Asphalt Mixture Design, HMA Base Course 25.0 mm, 0.0 to < 0.3 million ESAL's, PG64-22.** The materials and construction methods shall be in strict accordance with the requirements of Section 309 - "Superpave Asphalt Mixture Design, Standard Construction, HMA Base Course" of PennDOT Specifications. The base course shall be rolled with a vibratory roller to achieve a percent compaction between eighty eight (88) and ninety seven (97) percent.

3. Superpave Wearing Course. Surface course shall consist of constructing a wearing course of hot-mixed, hot-laid **Superpave Asphalt Mixture Design, HMA Wearing Course 9.5 mm, 0.0 to < 0.3 million ESAL's, SRL-L** on the above prepared base course to a depth of not less than **one and a half (1.5) inches**, after compaction. The materials and construction methods shall be in strict accordance with the requirements of Section 409 - "Superpave Mixture Design, Standard and RPS Construction of Plant-Mixed HMA Courses" of PennDOT Specifications. The bituminous surface course shall be rolled with a vibratory roller to achieve a percent compaction between ninety (90) and ninety seven (97) percent. The Township may require that the final wearing course be withheld until the streets are ready to be offered for dedication to the Township.

4. Shoulders. The roadway shoulders shall be constructed of stone aggregate thoroughly compacted to a total finished depth of not less than **fourteen (14) inches PA DOT 2A Subbase**. The shoulder depth shall be constructed in phases to remain on a level surface with the top coat of the adjacent roadway paving.

SECTION 611 PRIVATE ROADS

Private roads may be permitted by the Board under the following circumstances:

- A. There is a recorded agreement between the applicant and the Township specifying that said road will not be offered for dedication and will not be accepted by the Township unless constructed to Township standards existing at the time of offer of dedication.
- B. Lots fronting on private road shall meet the requirements of the Black Creek Township Zoning Ordinance with regard to lot width and setbacks.
- C. All lots on private roads shall have the required frontage on the private road.
- D. The design and construction of private roads shall be as described above in Sections 605 through 610 unless an alternative construction is approved by the Township Engineer.
- E. A private road maintenance agreement, acceptable to the Township Solicitor, shall be incorporated in the deeds for all lots so served. A note with regard to the private road not being dedicated shall be placed on the title plan to be recorded.

F. A private road shall meet all other development and design standards as set forth in this ordinance for public streets except as provided in Section 611D, above.

SECTION 612

DRIVEWAYS

A. Private driveways shall be provided for all residences and shall provide safe access to Township and State roads, eliminate problems of stormwater runoff and assure sufficient area for and access to off-street parking.

B. Shared driveways may be permitted for use by a maximum of two (2) adjacent lots, each of which shall have the required street frontage for the applicable zoning district or as required for interior lots. An ownership and maintenance agreement for the driveway, approved by the Township Solicitor, shall be required. Standards for shared driveways are contained in Section 605 through 610 above unless an alternative construction is approved by the Township Engineer. A profile of the proposed shared driveway centerline and a proposed cross-section must be shown on the plans.

C. No building permit will be issued for a new dwelling without the owner first obtaining a driveway permit.

D. Plans. A plan shall be submitted with each application for a driveway application which shall include at least the following:

1. Site plan of the driveway within twenty-five (25) feet of the public right-of-way and twenty-five (25) feet to each side of the centerline of the driveway.
2. Profile of the driveway with existing and proposed grading within the area of the site plan and the existing or proposed public street.

E. Unobstructed sight distance. No permit shall be issued for any driveway, nor shall any driveway be constructed whereon the sight distance from a point ten (10) feet from the edge of the cartway or the public street upon which the driveway opens is less than the minimum requirements of the PA Department of Transportation in either direction with respect to the view of oncoming traffic.

F. Driveways shall be graded so that, wherever possible, surface drainage will be discharged to the owner's property; otherwise, adequately sized pipes, inlets, and / or headwalls shall be installed and gutter improvements shall be made to direct surface drainage into the street drainage system and not onto the paving of the intersected street.

G. Driveways shall be paved within the right-of-way of the public street.

1. Grade. The driveway within the legal right-of-way of any Township, County or State road shall not exceed a grade of five (5) percent unless approved by the Township Engineer. The remaining driveway beyond the right-of-way shall not exceed a grade of fifteen (15) percent.

2. Material. The driveway within the legal right-of-way shall be constructed with a base course of 2A material (or approved equal) compacted to four (4) inches and shall be surfaced with a minimum of one and one half (1 1/2) inches of Superpave 9.5 mm wearing surface or approved equal. The remaining portion of the driveway shall be constructed of a minimum of 4" of compacted No. 3 stone or 2A material (or paved as required within the right of way).

3. Width. No driveway shall be less than twelve (12) feet wide within the limits of the legal right-of-way.

4. Drainage. The gutter line, wherever possible, shall be maintained as a paved swale and shall have a minimum depth of four (4) inches and a minimum width of twenty-four (24) inches.

5. Culvert Requirement. Where required by the Board or Township Engineer, culverts or pipes shall be installed under driveways to provide unobstructed flow of water in swales and shall be approved by the Township Engineer. The minimum culvert size to be used is to be 15 inches in diameter or twin 12 inch diameter culverts. Cover shall be installed over the pipe in accordance with manufactures specifications with 1 foot of cover to be used as a minimum (although 1.5 feet recommended). Either a flair end section or headwall is recommended at both ends of the culvert. Drainage calculations must be provided for all driveway culverts.

SECTION 613 SIDEWALKS

Concrete Sidewalks are required for pedestrian circulation for commercial subdivisions and multi-family developments. When sidewalks are proposed by the developer they shall meet the following requirements.

A. Sidewalks shall be a minimum of four (4) feet in width.

B. Where required, pathway rights-of-way shall be a minimum of ten (10) feet in width and may be located at the discretion of the Commission along the rear or side property lines.

C. Additional Sidewalk locations and / or paths may be required along heavily traveled streets and in the vicinity of schools and public buildings.

D. Maintenance of sidewalks shall be the responsibility of individual property owner for the portion of the sidewalk that fronts their property. This maintenance responsibility must be noted on the final plan.

E. It is the responsibility of the developer to construct the sidewalks in accordance with the requirements for all improvements as outlined in this ordinance.

SECTION 614 CONCRETE CURBS

A. Concrete Curbs are required on all multi-family residential, commercial and industrial subdivision roadways.

B. Vertical curbs shall be PennDOT standard vertical curb.

C. All materials entering into the construction of curbs and the method of construction and installation shall be in strict accordance with PennDOT Specifications, Publication 408, latest edition.

SECTION 615 STREET NAMES AND TRAFFIC SIGNS

A. It is the responsibility of the applicant to ensure that all proposed street names are acceptable to Black Creek Township and Luzerne County 911 prior to final plan approval.

B. All applicable traffic and street name signs to ensure safe traffic or pedestrian circulation are required to be installed by the developer and are to be included in the financial guarantee for the project. All traffic signs shall meet the most current requirements of PA DOT.

C. All proposed stop, street name and speed limit sign locations and specifications must be included on the plans.

SECTION 616 MONUMENTS AND MARKERS

Monuments and markers shall be placed so that the center, scored, or marked point shall coincide exactly with the intersection of the lines being monumented or marked and shall conform to the following:

616.1 Monuments

A. Monuments shall consist of either:

1. Solid steel rods not less than one (1) inch in diameter and not less than thirty-six (36) inches in length (preferably 42" to 48").
2. A two (2) inch (inside diameter) galvanized pipe filled with concrete at least thirty-six (36) inches in length (preferably 42" to 48").
3. A concrete cylinder four (4) inches in diameter and at least thirty-six (36) inches in length (preferably 42 to 48").
4. Other types approved by the Supervisors.

B. Monuments shall be set flush with the finish grade of the surrounding ground.

C. All monuments shall be placed under the direction of a Registered Professional Land Surveyor who will take full responsibility for their accuracy and placement.

D. Monuments shall be placed as follows:

1. At all exterior property comers where permanent corners do not exist at the time of the perimeter survey. (Existing permanent corners shall not be removed or replaced but shall be noted on the plan as existing and described.)
2. One (1) monument for every ten (10) lots proposed shall be placed at street intersections and intersections of rear lot lines, the location of which shall be proposed by the developer and approved by the Township. An adequate number of monuments shall be provided so that in no case shall the distance between monuments exceed one thousand (1000) feet.

SECTION 616.2 Markers

A. Lot markers shall consist of either:

1. Solid steel rods not less than three-quarters ($3/4$) inch in diameter and not less than twenty-four (24) inches in length.
2. Steel pipes not less than three-quarters ($3/4$) inch in diameter and not less than twenty-four (24) inches in length.
3. Other types approved by the Supervisors.

B. Markers normally shall be set two (2) inches above the finish grade of the surrounding ground.

C. All markers shall be placed under the direction of a Registered Professional Land Surveyor who will take full responsibility for their accuracy and placement.

D. Markers shall not be placed until road grading has been completed.

E. Lot markers shall be placed as follows:

1. At all points where lot lines intersect street right-of-way lines.
2. At all points where lot lines intersect exterior property lines.
3. At all interior lot corners.
4. At such other lot corners and locations as the Township may direct.

SECTION 617 FIRE FIGHTING — ADEQUATE AND RELIABLE WATER SOURCE

Each subdivision of 10 building lots or more and all Land Developments with a proposed building size of over 10,000 gross square feet shall provide an adequate and reliable water source for fire fighting purposes. The provisions for an adequate and reliable water source shall be submitted as part of the preliminary plan application. Such plans and installations shall be inspected by the Office of the Fire Chief and shall be approved by the Township Engineer. For developments of 49 units or less the developer may elect to provide this water source through the establishment of a pressurized water system, static water source or combination thereof. For developments of 50 units or more the developer must provide the water source by the establishment of a pressurized water system. When utilizing an off-site water source, the Developer shall secure a permanent contract with the source owner to provide said water. Water sources shall conform to the requirements set forth in this Section 617.

A. Pressurized Water System - When electing to use a pressurized water distribution system, the Developer may use a gravity, direct pumping, or combination system. Regardless of the type of pressurized system installed, the system shall be installed in compliance with NFPA 24, unless the Township imposes other specific requirements.

1. The flow capacity of the system shall be such that it will maintain a delivery rate of one thousand (1,000) gallons per minute and forty (40) pounds per square inch residual pressure for a two-hour duration. No piping shall be used which is less than six (6) inches in diameter.
2. Hydrants shall be of the dry barrel type with two (2), two and one-half-inch (2.5") nst male discharges and one (1), five inch (5") Storz (locking quarter turn) discharge. All discharges shall have caps installed. Hydrants shall not be set more than ten (10) feet from the road edge and shall have the five-inch (5") connection facing the roadway. There shall be no obstructions in front of, ten (10) feet to the sides of, and five (5) feet behind the hydrant. Each hydrant shall be equipped with a curb stop to allow for isolation of the hydrant. Fire hydrants shall be installed with a maximum spacing not to exceed one thousand (1000) feet. The Developer shall provide the Fire Company with a key to operate the curb stops. Hydrant bodies, caps and bonnets shall be painted in accord with NFPA requirements.

3. When pumps are used as part of the distribution system, a reserve power source shall be provided. This power source shall be designed to automatically start when primary power is lost. The Developer shall be responsible to provide monthly maintenance and testing of the power system.

B. Static Water Source System

1. A minimum storage capacity of 10,000 gallons shall be provided by the applicant for a subdivision of 10 building lots, or dwelling units in the case of multi-family developments, not served by a public water supply with sufficient fire flow volume. Additional storage of 500 gallons, should be provided for every additional lot or dwelling unit. For Land Developments, a minimum storage capacity of 10,000 gallons shall be provided for all buildings of at least 10,000 gross square feet. Additional storage of 2000 gallons, should be provided for every additional 1000 gross square feet of building. Additional storage capacity may be required based upon a recommendation from the Township Engineer, Planning Commission, or Supervisors who shall consult the Fire Chief, or National Fire Protection Association manual and the Life Safety Code. Storage facilities may be ponds with dry hydrants, underground storage reservoirs, or other acceptable methods. Where ponds are proposed for water storage, the capacity of the pond should be calculated based on the lowest water level less an equivalent of three (3) feet of ice. Ponds must be capable of maintaining the required volume through natural, or designed features, to be approved by the Township Engineer.
2. The developer shall ensure that access to the water source is provided within 2,000' (road distance not point to point) of any buildable point within the sub-division. This may be met either through the use of ponds, cisterns or a combination. Regardless of the type of static source provided, the system shall be installed in compliance with NFPA 1231, excepting where the Township imposes specific requirements.
3. The piping for the hydrant shall be installed at least 3 feet below the frost line and average ice depth of the water source. The strainer shall be located below the surface of the water at a depth that is greater than 3' below the average ice depth of the water (and the water surface) and no less than six inches (6") from Cisterns or tanks with hard bottoms and two feet (2') from the bottom of creeks or ponds. The strainer shall have a clean out cap installed for maintenance. The vertical distance from the water surface to the centerline of the hydrant head shall not exceed 10 feet.

4. The Dry Hydrants shall be capable of supplying a 1500 gpm pumper operating at 100 percent capacity at 150 psi through 10' of 6" suction hose. Dry hydrants shall be terminated with a 90° dry hydrant head with 6" NST female swivel threads and a cap. The centerline of the head shall be 3' from the ground. All piping used in the dry hydrant shall be primed with a PVC primer to prevent deterioration. The hydrant head shall be connected to the piping using a tapered coupling. The plumbing should be no less than 6-inch schedule 40 PVC pipe with the number of 45 and 90-degree elbows kept to a minimum. There shall not be any more than 10 feet of vertical "lift" from the center of the swivel adapter to the top of the water. The inlet of the hydrant must have a screen capable of flowing the capacity of the plumbing with no holes larger than ¼ inch.

5. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing road, an easement to the Township for access to and maintenance shall be provided. A suitable accessway to the hydrant or other water source shall be constructed. There shall be no obstructions in front of, ten (10) feet to the sides of, and five (5) feet behind the hydrant.

6. The Supervisors may waive the requirement for water storage only upon the Fire Chief has indicated in writing that alternate methods of fire protection are available.

7. A developer's agreement for maintenance, inspection, and or ownership, of any facility governed by this section shall be provided and approved prior to final approval.

8. All construction and post construction inspections of the facilities governed by this section shall be completed by the fire department and shall be conducted at their complete discretion. The developer is responsible for all reasonable fees associated with these inspections.

SECTION 618

WATER SUPPLY

A. If deemed feasible by the Board of Supervisors, subdivisions and land developments shall connect to a central water system if any exist in the project area and the Developer shall provide the water supply systems, meeting the requirements of the water system owner, to the Township for review.

B. All water systems shall be designed and certified by a Registered Professional Engineer or other individual otherwise certified for such design work and all systems shall be designed in accord with all applicable federal, state, and local standards. Unless otherwise specified by this ordinance all water system design is to conform to the latest additional of the PA DEP Public Water Supply Design Manual and PA Code, Title 25, Chapter 109.

C. When a subdivision or land development cannot connect to an existing central water system acceptable locations for on-lot water systems shall be shown on the plans and shall be constructed in accordance with the regulations set forth by PA DEP. Aquifer testing for major subdivisions and land developments may be required by the Planning Commission, Supervisors or Township Engineer if the proposed project is in proximity to areas of known groundwater contamination or inadequate yields of potable water supplies. Aquifer Tests shall be required for all new developments in which the developer plans to construct, operate or substantially modify a water system which will serve 15 new service connections, 25 year-round residents or the development involves the construction of 15 or more individual on-lot water wells. All aquifer testing to be in conformance with the methods and requirements outlined in the latest edition of the PA DEP Public Water Supply Manual. Prior to the submittal of a preliminary plan the developer or developers' engineer/geologist should contact the Township to discuss the need and scope of the testing that may be required.

D. Design calculations and testing results for all proposed water facilities shown on the plan must be submitted to the Township for review and approval.

E. Evidence must be submitted to the Township prior to final approval that the water supplier is either a certified public utility, a bona fide cooperative association of lot owners or a municipal corporation, authority or utility. If the water system is to be operated by the Developer, the Developer must submit evidence that the water system operator is qualified and certified to operate the system.

F. All water distribution systems to be designed in accordance with the requirements of the latest edition of the PA DEP Public Water Supply Manual. The standards include, but are not limited to, the following:

1. The pipe system shall be designed to maintain a minimum pressure of 20 psig at ground level at all points in the distribution system under all conditions of flow. The normal working pressure in the distribution system should be approximately 60 psig.
2. The minimum size of a water main which provides for fire protection and serving fire hydrants shall be 6-inch diameter. The minimum size of a water main where fire protection is not provided shall be 3-inch diameter.
3. Fire protection and hydrants to be provided in accordance with Section 617.
4. An approved blow-off or flushing hydrant must be provided at dead ends and shall be sized to provide flows which will give a velocity of at least 2.5 fps in the main being flushed.
5. Shut-Off Valves must be placed at not more than 500 foot intervals in commercial districts and at not more than one block or 800 foot intervals in other areas of the distribution system.
6. Air relief valves should be used at high points in water mains in situations where flooding of the manhole or chamber is not anticipated.
7. Six inches of No. 2A material or approved equal must be used as bedding material and twelve inches of No. 2A material must be used over the pipe and compacted in 8 inch lifts. If a water main is to be under a paved roadway No. 2A material must be used to the top of the trench.

8. Water mains and sewer mains must be separated horizontally by at least 10 feet unless it is not practical. If the separation distance cannot be maintained the water main must be laid in a separate trench on one side of the sewer with the bottom of the water main is at least 18 inches above the top of the sewer.
9. All water main crossings of storm drains or sewers must have a separation distance of 18 inches from the bottom of the water main to the top of the other pipe.
10. All underwater crossings of stream beds shall be located such that there will be a minimum of 3 feet of cover between the top of the pipe or encasement and the lowest point of the stream bed. All PA DEP permits must be obtained for the crossing.

SECTION 619 DISPOSAL

SANITARY SEWAGE CONVEYANCE AND

619.1 General Standards

A. All subdivisions and land developments shall be served by an adequate sewage disposal and conveyance system; and, the Developer shall provide evidence documenting said adequacy.

B. All suppliers of non-municipally owned, sewer services shall be organized in such a fashion as may be required by the Pennsylvania Public Utility Commission; and, the Developer shall develop a Sewage Management Program which provides for operation, maintenance, and continuity of services in a manner which is acceptable to the Supervisors. PA Code Title 25 Chapter 71.72 must be adhered to when developing a Sewage Management Program.

C. One (1) copy of all correspondence, supporting documentation, applications for permits and certificates for operation submitted to the PA DEP and/or the Pennsylvania Public Utilities Commission (PA PUC) for the right to provide such services shall be forwarded to the Township as a part of the public record. One (1) copy of the permit and/or certificate of convenience issued by PA DEP and/or the PA PUC authorizing such services shall be forwarded upon receipt to the Township as a part of the public record.

D. In the case of utilization of a publically owned or other existing central sewage disposal system the Developer shall submit, at the preliminary stage, a letter from the operator of such utility indicating the utility owner's willingness to supply service to the development and including a verification of the adequacy of the utility system to serve the proposed development. At the final approval stage, an executed agreement with the service supplier shall be submitted.

E. All required Certificates of Convenience, approvals and permits shall be obtained by the Developer and/or the utility owner as a condition of preliminary approval and shall be submitted with the Final Plan application.

F. All sewage disposal systems shall be designed and certified by a Registered Professional Engineer or other individual otherwise certified for such design work; and, all systems shall be designed in accord with all applicable federal, state, and local standards.

G. Pressure testing of all collection/conveyance of all central sewage disposal system lines shall be required. All such testing shall be conducted in accord with the procedures specified by the future owner of the line.

H. All sewage disposal systems shall be consistent with the Township Sewage Facilities Plan and the PA DEP required sewage planning modules shall be submitted by the Developer.

I. A minimum 20 foot wide easement must be provided for all proposed sewage conveyance lines to be dedicated to a third party sanitary sewer owner for all lines to be located outside of a Township Right of Way.

J. A note must be located on the preliminary plan stating that as-built drawings will be provided to the Township within 6 months after the completion of construction.

619.2 On-Lot Sewage Disposal

A. Standards - All on-site sewage disposal systems shall comply with the applicable PA DEP standards, the Township's Act 537 Plan, and all other applicable standards.

B. Site Suitability

1. All residential lots in developments proposing the use of on-site sewage disposal shall contain one area suitable for such a disposal system with such areas indicated on the Preliminary Plan and Final Plan.
2. Prior to any action on the Preliminary Plan by the Planning Commission, the Applicant must document that all lots in subdivisions proposing on-site sewage disposal contain a suitable area as tested by the Township SEO in accord with PA DEP requirements and this Ordinance; or, that all lots are already served by an adequate, existing sewage disposal system.
3. Should the Applicant propose the use of individual systems which do not require soil testing, documentation shall be provided that the affected lots are suitable for the proposed system. In addition, a note shall be placed on the Preliminary Plan and Final Plan detailing the type of system(s) proposed and stating that the affected lots have not been tested for a soil-based system.

619.3 Central Sewage Disposal System. In addition to the following standards, the Township's Act 537 plan shall govern all central sewage disposal facilities, as defined by that document.

A. Public Sewage Disposal - All proposed developments shall connect to such system in accord with the requirements of the Township Sewage Facilities Plan, the PA DEP, and the PAPUC.

B. Project System - If a central sewage conveyance system is not accessible and sewage disposal is to be furnished on a project basis, the Applicant shall, upon submission of the subdivision or land development plan, submit written evidence that he has complied with all Township, County, and State regulations, and that the proposed system to be installed meets the requirements of the PA DEP and any other applicable regulations.

1. All central sewage disposal systems shall be consistent with the sewage feasibility studies and plans of the Township.

2. All sewage collection and treatment facilities shall be designed and constructed in accordance with regulations and requirements of the future system's owner, PA DEP and all applicable Township Ordinances; and shall meet the requirements of the Township to ensure compatibility if such system is at some point connected to a Township owned system.

3. All central sewage disposal systems shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development. The Township may also require that any central sewage disposal system be designed and constructed to provide for service to adjacent or nearby properties. In such instances, developers shall be financially responsible solely for those costs associated with their individual development.

4. All central sewage disposal systems using subsurface or land application of sewage effluent shall be designed and constructed in accord with applicable PA DEP standards; and, a suitable replacement area for the effluent disposal area shall be provided.

619.4 Community System Maintenance

In order to extend the useful life of community sewage disposal systems and minimize disposal system problems, the Developer shall, for all subdivisions or land developments using a community system, provide for system maintenance via the creation of a Property Owners Association. Such POA shall provide for the inspection of the community system each year and the pumping of septic tanks at intervals as required but not less once every three (3) years from the date of the operation of each system. The POA shall file with the Township an annual report detailing which systems have been inspected and pumped, showing receipts for same from a septage hauler disposing of the septage at a PA DEP licensed facility. Failure of the POA to comply with this §619.4 shall be considered a violation of this Ordinance.

SECTION 620

STORM WATER AND DRAINAGE CONTROL

620.1 Storm Water Management Plans: Ordinance

All subdivisions and land developments shall comply with the requirements of the Black Creek Township Stormwater Management Ordinance. In case of any differences between the Black Creek Township Stormwater Management Ordinance and this Section the more restrictive requirement shall apply.

620.2 Compliance with State Regulations

The Plan shall meet the intent of §13 of the Pennsylvania Storm Water Management Act and other applicable regulations to assure that the maximum rate of storm water runoff is no greater after development than prior to development activities; or, the quality, velocity and direction of storm water is managed in a manner which otherwise adequately protects health and property from possible injury. Said Plan shall also comply with all PA DOT and PA DEP requirements.

620.3 Plan

A storm water drainage and management plan shall be required for all subdivisions and all land developments (unless the project qualifies for an exemption as outlined in the Stormwater Ordinance) and shall be subject to the approval of the Supervisors with the recommendation of the Township's Engineer. The Plan shall show all existing surface drainage features and shall include all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials, grades, and elevations. The Developer shall submit the plan and all associated engineering calculations to the Planning Commission at the time of subdivision or land development preliminary plan submission.

620.4 Requirements

A. The basic goal of the storm water management plan shall be to maximize the on-site infiltration of storm water and minimize the overall volume of storm water leaving the property after development; and, the plan shall incorporate best management practices to achieve this goal.

B. The Planning Commission shall, in cases where existing drainage problems, flooding or other factors relating to the public health, safety, and welfare and upon the recommendation of the Township's Engineer, require that the proposed storm water control facilities be designed to more stringent storm frequency and/or other criteria; or, it shall require the provision of storm water control facilities in areas where no such facilities are proposed by the developer.

C. All proposed storm water drainage structures shall be indicated on the drainage plan submitted with the subdivision or land development plan and shall be considered "improvements" for the purposes of final subdivision approval. Construction materials shall comply with the latest PA DOT Publication 408 standards and the applicable PA DOT RC standards for construction.

D. Storm water or natural drainage water shall not be diverted to overload existing drainage systems, or create flooding or the need for additional storm water management or drainage facilities on other properties without the written consent of the owners of such properties and the provision by the Developer of facilities to control the storm water or drainage.

E. Where a subdivision is traversed by a natural drainage way or channel, the Developer shall reserve a drainage easement conforming substantially with the line of such drainage way or channel, and of such width as determined by the Planning Commission adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, maintaining, improving, or protecting such drainage facilities. A drainage easement shall also be so provided for all proposed storm water control facilities.

F. Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement of not less than fifty (50) feet on each side of the stream from each stream bank, or such additional width as will be adequate to preserve the unimpeded flow of the watercourse.

G. In no case shall any pipe system of less than eighteen (15) inches be installed underneath a street or driveway, and all pipes shall be of a plastic, PVC, concrete or other material of an equal or greater useful life, meeting the requirements of PA DOT Publication 408, latest edition.

H. Drainage structures that are located on State Highway right-of-ways shall be approved by the Pennsylvania Department of Transportation; and, a letter from that agency indicating such approval shall be directed to the Township prior to final stormwater management plan approval.

I. Lots shall be laid out and graded to prevent cross lot drainage and to encourage drainage away from proposed building areas.

J. Drainage easements of a minimum of ten (10) feet in width shall be provided on each side of all side and rear lot lines and adjacent to street rights-of-way as required by the storm water drainage and management plan. A note must be added to the plan demonstrating compliance with this section.

K. Paved street shoulders, gutters, and/or drainage swales and rip/rap of drainage swales may be required to provide for adequate storm water management.

L. Drainage pipes shall have a minimum slope of one-half percent (0.5%)

M. All open ended pipe must be fitted with concrete end walls or prefabricated end sections. All end walls, end sections or inlets shall be constructed and installed in accordance with PennDOT standards.

N. Manholes or inlets shall be used at all changes in horizontal alignment, at changes in vertical alignment and at all pipe junctions. No run of pipe shall exceed 400 feet in length, without appropriate measures to provide cleanout. Inlets must be spaced at intervals to achieve desired capacity based on the methods outlined in PennDOT Design Manual 2.

O. All wet pond or retention basin designs must incorporate biological controls to control the West Nile Virus.

P. Anti-seep collars and an inner core of relatively impervious material (clay) must be provided under all stormwater detention basin berms. Watertight anti-seep collars shall be installed around discharge pipes at intervals not to exceed 24 feet and shall extend a minimum of 2 feet beyond the outside of the pipe.

Q. All inlets to have a sump of a minimum of 1 foot and shall have weep holes covered with geotextile fabric to provide complete drainage of the inlet. All inlets shall be constructed on a base of a minimum of 12 inches of 2A material.

620.5 Maintenance of Storm Water Control Facilities

A. Maintenance of storm water control facilities, including easements between lots, shall be the responsibility of the owner of said facilities. A legally binding agreement shall be required between the owner and the Township to provide for such maintenance and providing for inspections by the Township. A sample agreement is located in the Appendix of the Black Creek Township Stormwater Management Ordinance.

B. In cases where a property owners association is created for the ownership, operation, and maintenance of common facilities, such property owners association shall be responsible for the maintenance of storm water control facilities; and, such maintenance shall be established in the deed covenants and restrictions.

C. When storm water management control facilities are located on an individual lot, and when such facilities are the responsibility of that landowner to maintain, a description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.

D. If the Township determines at any time that any permanent storm water management control facility has been eliminated, altered, or improperly maintained, the owner of the storm water control facility shall be advised of the corrective measures required and given a reasonable period of time to take necessary action. If such action is not taken by the property owner, the Township may cause the work to be done and lien all costs against the property.

620.6 Soil Erosion and Sedimentation Controls

All soil erosion and sedimentation control plans shall meet the specifications of and shall be approved by the Luzerne Conservation District and/or PA DEP. Said Plan shall comply with Commonwealth of Pennsylvania, Title 25, Chapter 102 Department of Environmental Protection regulations for soil erosion and sedimentation control. Erosion and sedimentation controls shall be installed according to the approved Plan and shall be maintained by the developer in proper functioning condition until stabilization of the area is completed as determined by the Luzerne Conservation District. Preliminary Plan approval shall be conditioned on all required approvals and permits from the Luzerne County Conservation District and/or PA DEP.

SECTION 621

UTILITIES

All utility lines required to service the subdivision shall be planned in cooperation with the respective utility companies. A letter shall accompany the preliminary subdivision or land development plan stating that the utility plan has been reviewed by the applicable utility company and service will be available. All cables, wires, conduits, pipes, and lines servicing the development shall be subject to the requirements set forth in this Ordinance.

SECTION 622

UTILITY EASEMENTS

Easements shall be provided for all utilities including, but not limited to poles, wires, conduits, storm and sanitary sewers, water and heat mains, gas, electric power, telephone, cable TV and roadway embankments.

A. Location and Width. With the exception of on-lot sewer laterals, utilities shall be located either within the public right-of-way or in easements centered on or adjacent to front, rear or side lot lines. No structures or trees shall be placed within such easements. Such easements shall be minimum of twenty (20) feet in width.

B. Underground Installation. In all developments, unless otherwise permitted by the Township Supervisors or utility companies, the electric, telephone and all other utility facilities shall be installed underground. All existing and proposed utilities shall be shown on the preliminary plan. Prior to final plan approval the developer shall be required to obtain a letter from each utility company providing service to the subdivision stating that it has entered into an agreement with the developer to provide for such a system. All underground utilities including laterals, service connections, etc. or provisions for the same shall be installed prior to the placing of the subbase material in areas where the utilities underlie the cartway.

C. Petroleum, Gas and Electric Transmission Lines.

(1) Where any petroleum, petroleum products, natural gas or electric transmission line traverses a subdivision or land development the developer shall confer with the applicable transmission or distribution company to determine the minimum distance which the company requires between each structure and the centerline of such transmission line. Prior to preliminary plan approval the developer shall be required to obtain a letter from the transmission or distribution company stating that it has entered into an agreement with the developer establishing an easement through the tract and stating any conditions on the use of the tract and the easement width.

(2) Any company intending to install a petroleum, petroleum products or natural gas transmission line shall be required to construct such line on an easement at least fifty (50) feet wide, and the line shall be located at the center of such easement. The installation shall comply with all applicable standards of the Pennsylvania Utilities Commission.

(3) A minimum distance of fifty (50) feet, measured from the edge of the easement, shall be required between any proposed dwelling unit and any petroleum, petroleum products or natural gas transmission line that traverses a subdivision.

SECTION 623

STREET LIGHTING

Street and parking lot lights may be required when considered necessary by the Supervisors and shall be of such design and spacing as required by the Supervisors and Township Engineer.

SECTION 624

RECREATIONAL AREA REQUIREMENTS

624.1 Purposes

The purpose of this section is to provide adequate active recreational facilities to serve the occupants of new developments and the current residents of Black Creek Township. The 20% Open Space Requirement for major residential subdivisions does not relieve the developer of the requirements of this Section 624.

624.2 Applicability

This section shall apply to all residential subdivisions and residential land developments.

624.3 Fees

The Developer of any residential subdivision or land development governed by this §624 shall pay a recreation fee in accord with the following.

A. Fee Amount

1. Fees for dwelling lots or units shall be assessed on a per lot and per unit basis.
2. The fee shall be \$300.00 per dwelling lot or unit.
3. Only residual tracts on subdivision plans which contain the non-building waiver note or proposed lots that will contain existing dwellings shall be exempt from this requirement.

B. Accounting - Any fees collected under this section shall be placed in an interest bearing account and shall be deposited in an interest bearing account, clearly identifying the specific recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the cost incurred to construct the specific recreation facilities for which the funds were collected.

C. Use of Fees - The fees shall be used for Township or other public recreation facilities located in the Township. In addition, the Supervisors may commit fees to a recreation area open to the public in an adjacent municipality that would serve the inhabitants of the development that paid the fees. Such fees shall only be used for the acquisition of public open space and related debt payments, development of public recreational facilities, landscaping of public open space, and related engineering and design work.

D. Time Limit on Use - Upon request of any person who paid any recreation fee, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township had failed to use the fee for the purposes set forth in this §624 within five (5) years from the date such fee was paid.

E. Timing of Fees - Fees shall be paid prior to the approval of the Final Plan.

624.4 Facilities in Place of Fees

An applicant may submit a written request for a modification of the requirements of this §624 by offering to construct recreation facilities open to the general public within the proposed subdivision or on public parkland. **Such modification shall only be approved if the Developer clearly proves to the satisfaction of the Supervisors that the facilities will serve a valid public purpose, the developer or a home owners association will be the owner and will be responsible for the maintenance of all facilities, and the facilities will have an equal or higher value than the fees that would otherwise be required.** The Supervisors shall determine whether facilities construction would be in the public interest, or whether the payment of fees is required. This determination should, but is not required to, be made at the time of Preliminary Plan review. The Supervisors should, at a minimum, consider the following in this decision:

A. Whether the facilities in the proposed location would serve a valid public purpose.

B. Whether the facilities are a desirable addition to an existing public park.

C. Whether the proposed facilities meet the objectives and requirements of this §624 and any relevant goals and policies of the Township's Recreation Plan.

- D. Whether the facilities, if proposed within the development, will be easily accessible to other Township residents.

- E. Any recommendations from the Planning Commission, the Township Engineer, the School District, or the County Parks and Recreation Board.

- F. Whether the maintenance agreement provided clearly defines the schedule and the person(s) responsible for performing all of the maintenance of the facilities.

SECTION 625 VEGETATION AND LANDSCAPING

625.1 Plan Requirements

All areas of the site shall be included in the landscaping plan, and buffers, screening, and those areas immediately adjacent to buildings and walkways shall be given extra consideration. Landscape plans shall be submitted concurrently with all Preliminary and Final Plans. Landscape plans shall be prepared by a landscape architect licensed and registered to practice by the Commonwealth of Pennsylvania or other person deemed qualified by the Township. In addition to the information required by the other plan information provisions of this Ordinance, the following information shall be provided:

A. The preliminary landscape plan shall show the following:

- 1. Existing Features** - The location and character of existing buildings; mature trees standing alone; approximate location of major specimen trees (24" or greater DBH) in any area of the site proposed for development; outer limits of tree masses and other existing vegetation; and, the location of floodplain, wetlands, and other natural features that may affect the location of proposed streets, buildings, and landscape plantings.

2. Proposed Landscaping

- a. Location of all proposed landscaping.

b. Demarcation of existing vegetation "TO REMAIN" or "TO BE REMOVED" and the means of protecting existing vegetation during construction.

c. Location of proposed buildings, paving, utilities, or other improvements.

B. The Final Landscape Plan shall show the following:

1. Location of all outside storage and trash receptacle areas.
2. Sidewalks, berms, fences, walls, free-standing signs, and site lighting.
3. All existing and proposed contours at an interval deemed adequate by the Township to determine the relationship of planting and grading areas with slopes in excess of 3:1.
4. Existing mature trees, woodland, and tree masses to remain.
5. Existing mature trees, woodland, and tree masses to be removed.
6. Location of all proposed landscaping; including street trees, storm water basin landscaping, parking lot landscaping, property line buffers, and site element screen landscaping.
7. A planting schedule listing the scientific and common name, size, quantity, and root condition of all proposed plants. This section does not require specific quantities, types of vegetation and minimum sizes. It is strongly encouraged to specify vegetation native to the area to ensure survival and low maintenance. Please note if plants are to serve as a buffer or a screen, an adequate density and minimum size (as determined by the Board) must be provided to serve as a screen and/or buffer at the time of the planting.
8. Planting details, including method of protecting existing vegetation, and landscape planting methods.

9. Information in the form of notes or specifications concerning seeding, sodding, ground cover, mulching, and the like, etc.
10. A detailed cost estimate shall be submitted, showing the value of all proposed landscaping, including all labor and materials.
11. All buffers and screening is to be in accordance with the standards set forth in the Black Creek Township Zoning Ordinance.
12. A maintenance agreement of all proposed plantings which details a maintenance schedule, methods and the person(s) responsible for the maintenance.

SECTION 626 TRAFFIC IMPACT STUDY AND REQUIRED IMPROVEMENTS

A Traffic Impact Study shall be required to be submitted to and approved by the Township prior to Preliminary Plan Approval in conformance with the standards outlined in this Section 626 if the project meets the requirements for a study as outlined in Section 626.1

Section 626.1: Criteria for the determination if a Traffic Impact Study is required

- (a) A preliminary subdivision or land development application must include a traffic impact study if:
 - (1) The proposed site access is expected to have an Average Daily Traffic (ADT) of 3,000 or more, or
 - (2) During any one hour time period of any day of the week, the development is expected to generate either 100 or more new vehicle trips entering the development or 100 or more new vehicle trips exiting the development, or
 - (3) A residential subdivision of one hundred or more dwelling units, or

- (4) In the opinion of the Township Engineer, the development is expected to have a significant impact on highway safety or traffic flow even though it does not meet (1), (2) or (3) above.
- (b) For purposes of determining the need for a traffic impact study, assume the total development will have access at only one location. Include all vehicle trips expected to be generated by the development based on full build out and occupancy of the entire tract of land available to be developed at that location including previously approved phases or dwelling units.

Section 626.2: Preparation of a Traffic Impact Study

- (a) **General.** When a traffic impact study is required, the applicant is responsible for assessing the overall impact that traffic generated by the proposed development would have on the transportation system in the surrounding area.
- (1) The applicant is responsible for data collection efforts.
- (2) The study shall be conducted under the supervision of a person who possesses a professional engineer's license issued by the Pennsylvania State Registration Board for Professional Engineers, who shall affix a seal to the study, or may be conducted by other persons authorized by law.
- (3) Upon receipt of a traffic impact study, the Township will review the applicant's assessment on whether capacity, safety or other enhancements are needed to mitigate traffic impacts.
- (b) **Traffic Study Scope.** A pre-application scoping meeting shall be held whenever a traffic impact study is required.
- (1) The applicant must contact the Township Engineer to coordinate the scope of the traffic study. The traffic study area must be approved by the Township Engineer prior to traffic data collection.
- (2) As a general rule if there a more than 100 new trips entering or exiting the last intersection in the study area, the next intersection must be added.

(3) Traffic impact study information that should be conveyed to the Township Engineer include description of the proposed development and zoning, development schedule and staging trip generation, study area and type, urban or rural area determination, analysis periods and times traffic adjustment factors, other projects within the study area, trip distribution and assignment required traffic counts, capacity and other required analyses, and acceptable methodologies to be used in the study.

(c) Traffic impact study contents. The traffic impact study shall contain the following:

(1) Overview. The traffic impact study shall identify the existing land use, zoning and transportation facilities at the site and its surrounding area.

(i) The traffic impact study shall include a description of the property, indicating its size, general terrain features, highway right-of-way lines, and identify the municipalities and counties within the study area.

(ii) The traffic impact study shall identify the roadways that provide access to the site.

(iii) The limits of the study area shall be based on sound engineering judgment and an understanding of existing and future traffic conditions at the site and within the surrounding transportation network, and shall be defined at the scoping meeting or shortly there after.

(iv) The traffic impact study shall describe the development including its function, size, and short and long term growth potential.

(v) The traffic impact study shall identify the specific existing and proposed uses of the site as well as the current zoning categories.

(vi) The traffic impact study shall include a drawing which shows the development within the site boundaries, including:

- (A) internal traffic circulation pattern,
- (B) existing and proposed parking,
- (C) the size, location and type of existing and proposed improvements, buildings and building appurtenances, fuel pumps and drive-through facilities,
- (D) present and proposed building and land uses, and
- (E) the location and orientation of existing and proposed access points.

(vii) The traffic impact study shall describe the proposed development schedule and staging, including the anticipated opening date, the anticipated completion date for each major phase of development and the anticipated full build out completion date.

(viii) The traffic impact study shall include a complete description of the existing and proposed land uses and zoning categories within the study area.

(ix) The traffic impact study shall include a description of existing roadways, intersections and high volume driveways within the designated study area, including the geometries, traffic signal permit drawings and improvements planned by government agencies or others.

(2) Existing traffic conditions. The traffic impact study shall describe the data collection and analysis efforts, volume studies, capacity and level of service analyses, and other analyses which were completed for the roadways, intersections and high volume driveways within the designated study area, to reflect existing traffic conditions. The applicant or the Township shall determine the location, time periods and methodologies to be used for data collection, studies and analyses.

(i) The traffic impact study shall include figures or schematic drawings, in a form acceptable to the Township depicting daily and peak hour traffic volumes within the study area.

(A) Turning movement and mainline volumes shall be provided for the roadway a.m., roadway p.m. and site-generated peak hour conditions, or as otherwise directed by the Township after consultation with the applicant.

(B) ADT volumes shall be provided for the mainline roadway.

(C) Other daily and peak hour volumes may be required by the Township after consultation with the applicant.

(ii) The traffic impact study shall provide an assessment of the relative balance between traffic volumes and capacity within the study area for existing conditions during the appropriate peak hours, using techniques acceptable to the Township. Based on the capacity analysis results, the study shall determine the current levels of service. The study shall also describe the typical operating conditions at each level of service.

(iii) The traffic impact study shall evaluate the effectiveness of existing signal controls within the study area in terms of vehicle stops and delays, using techniques acceptable to the Township.

(iv) If directed by the Township, the traffic impact study shall include turning lane and queue length studies within the study area, using techniques acceptable to the Township, to determine the need for auxiliary lanes, the required auxiliary lane lengths, and to evaluate alternative access locations at various distances from controlled intersections.

(v) If directed by the Township, the traffic impact study shall include gap studies within the study area, using techniques acceptable to the Township to evaluate existing or proposed access locations where there is a heavy volume of traffic on the abutting major route, or a significant volume of left turns is expected from the

site, or the exit would not be expected to qualify automatically for traffic signal control. Gap studies may identify whether there is a need for signal control or for additional access locations to reduce left turn volumes.

(vi) If directed by the Township, the traffic impact study shall include sight distance analyses, traffic signal warrant analyses, left-turn traffic signal phasing analyses, analyses of other needed traffic signal phasing or timing modifications, traffic signal corridor or network analyses, crash analyses, weaving analyses, and other studies and analyses within the study area, using techniques acceptable to the Township.

(3) Future traffic conditions without development. The traffic impact study shall describe the ability of the roadway network within the study area to accommodate future traffic without development for the ensuing **five (5) years** beyond the opening date of the development, and other time periods as directed by the Township.

(i) The traffic impact study shall indicate the method and assumptions used to predict future traffic volumes so that the Township can verify and approve the applicant's calculations. The traffic impact study shall use seasonal adjustment factors and annual base traffic growth factors from the Township, the appropriate Metropolitan Planning Organization or Local Development District or other source acceptable to the Township. The traffic impact study shall include the additional traffic volumes that are expected for other proposed developments within the study area, as directed by the Township. Figures or schematic drawings depicting future traffic volumes shall be consistent with subsection (c)(2)(i), including locations and times.

(ii) The traffic impact study shall describe the ability of the existing roadway system within the study area to accommodate future traffic without site development for the appropriate peak hours, using techniques approved by the Township. If roadway improvements or modifications are programmed by government agencies with approved construction funding, or if improvements or modifications will be constructed by others in conjunction with issued permits, the traffic impact study may include these conditions in the capacity and level of service analyses.

(iii) If directed by the Township, the traffic impact study shall include other studies and analyses consistent with subsections (c)(2)(iii) - (vi) to determine future traffic conditions without development within the study area.

(4) Future traffic conditions with development. The traffic impact study shall describe the adequacy of the roadway network within the study area to accommodate future traffic for the ensuing **five (5) years** beyond the opening date of the development, and other time periods as directed by the Township, and as determined at the scoping meeting, where applicable.

(i) The traffic impact study shall identify the amount of traffic generated by the site for the daily and appropriate peak hour conditions. The traffic impact study shall provide trip generation rates with documentation and justification acceptable to the Township. The traffic impact study shall use sources acceptable to the Township based on surveys of multiple sites with the same land use type and similar size as the proposed development.

(ii) The traffic impact study shall identify the direction of approach for site generated traffic for the appropriate time periods. The traffic impact study shall identify the method and assumptions used so that the Township can verify and approve the applicant's calculations.

(iii) The traffic impact study shall describe the utilization of study area roadways by site generated traffic. The traffic impact study shall combine anticipated traffic volumes identified under subparagraph (i) with anticipated traffic volumes identified under subsection (c)(3)(i) to describe mainline and turning movement volumes to future conditions with development.

(iv) The traffic impact study shall include mainline and turning movement volumes for the appropriate time periods for the roadway network in the study area as well as for the development access points and internal circulation roadways that may impact access operations

(v) The traffic impact study shall include a capacity analysis and levels of service in the study area for the appropriate peak hours for future conditions with development, using techniques approved by the Township.

(vi) If directed by the Township, the traffic impact study shall include other studies and analyses consistent with subsections (c)(2)(iii) - (vi) to determine future traffic conditions with development within the study area.

(5) Recommended improvements. The traffic impact study shall compare the operating levels between anticipated conditions and identify mitigation that will provide future design year levels of service with the development which are no worse than future design year levels of service without the development, unless a waiver/modification is granted by the Board of Supervisors based on future design year conditions with development which are safe and within the range of acceptable operation.

(i) For locations where the overall intersection delay increase is less than or equal to 10-seconds, mitigation of the intersection will not be required.

(ii) For locations with a Marginal LOS Degradation such as a LOS A to a LOS B or a LOS B to a LOS C a waiver may be considered by the Board.

(iii) For locations where the level of service of the design year without the development is Level of Service F, the mitigation shall provide an estimated delay which will be no worse than the delay for the design year without the development.

(iv) If a new intersection is being established to serve as access to the development, the intersection shall be designed to operate at Level of Service C or better in the future design year where rural conditions exist and at Level of Service D or better in the future design year where urban conditions exist.

(v) The traffic impact study shall include a description of proposed mitigation, arranged by location and type of mitigation.

(A) The mitigation may include projects programmed by the federal government, the state government, the county government, the municipality, the metropolitan planning organization or other governmental agency.

(B) The mitigation may include a proposal by the applicant to reimburse the Township as part of a programmed Township project, or to pay, in lieu of construction, the cost of all or a portion of the highway improvements which increased traffic arising from the development may necessitate. The Township, in exercise of its engineering judgment will determine if the proposal is acceptable.

(vi) The traffic impact study shall provide details on the location, nature and extent of remedies which will provide sufficient roadway capacity and operating levels within the study area. If signalization is a recommended remedy, the traffic impact study shall include a traffic signal warrant analysis in accordance with the latest addition of the MUTCD Chapter 4C. The final access design shall address both traffic flow and highway safety considerations to provide operational characteristics acceptable to both the Township.

(vii) The traffic impact study shall address how the access relates to internal site circulation and design.

(viii) The traffic impact study applicant shall include capacity and level of service analyses and describe the anticipated results of the recommended mitigation, using techniques approved by the Township.

(ix) If directed by the Township, the traffic impact study shall include other studies and analyses consistent with subsections (c)(2)(iii) - (vi) to determine the anticipated effectiveness of the remedies.

(6) Summary. The traffic impact study shall include a clear, concise description of the study findings acceptable to the Township. Plans for the development shall include recommended mitigation which will provide future design year levels of service with the development consistent with the requirements of subsection (c)(5).

Section 626.3: Required Traffic Improvements

(a) Purpose

In recognition of Sections 503(2)(ii) and 503(3) of the Pennsylvania Municipal Planning Code (PA MPC), this section is primarily intended to ensure that the streets bordering a subdivision or land development are coordinated and of such widths and grades and in such locations as deemed necessary by the Township to accommodate expected traffic and to facilitate fire protection and to ensure that the access into and out of new developments is safe.

(b) Process

This section shall be carried out through determinations of the Board of Supervisors based on recommendations of the Planning Commission, Township Engineer, the Applicant, the PA DOT, Luzerne County and the Traffic impact Study itself.

(c) On-site and Abutting Traffic Improvements

If, in the determination of the Board of Supervisors, there is a reasonable relationship between the need for an improvement to be constructed on the applicants property or an improvement to be constructed on the property abutting the applicants property necessary for the ingress or egress to the applicants property and the traffic expected from the new development, the applicant shall be required to complete the needed improvement or fund his/her fair share of the cost of such traffic improvement. These "on-site" improvements may include, but are not limited to, a new or upgraded traffic signal, land dedication to improve an abutting intersection, the re-alignment of a roadway, the widening of a roadway or the widening of a right of way.

(d) Off-site Traffic Improvements

In accordance with the PA MPC the Township shall not require an applicant to fund or complete a roadway improvement that is an "off-site" improvement unless the Board of Supervisors determine that such improvement is clearly essential for the physical safety of the residents of the proposed development (such as for emergency vehicle access).

(e) Funding

In place of completing a required street improvement as a condition of final approval, an applicant may enter into a legally binding traffic improvement agreement with the Township for the applicant to fund the improvement, or his/her fair share of such improvement, as determined by the Board of Supervisors.

(f) Accounting

Any such funds may be placed in escrow until such time as sufficient funds are available for a more comprehensive improvement, with interest being used towards the cost of the improvement.

ARTICLE VII

Improvement Construction and Guarantees and Open Land

SECTION 700

GENERAL

No project shall be considered in compliance with this Ordinance until the streets, parking facilities, storm drainage facilities, water and sewer facilities, lot line markers and survey monuments and all other required or proposed improvements have been installed in accordance with this Ordinance.

No final plan shall be signed by the Supervisors for recording in the office of the Luzerne County Recorder of Deeds until:

A. All improvements required by this Ordinance are installed to the specifications contained in Article VI of this Ordinance and other Township requirements and such improvements are inspected by the Township Engineer and are certified as complete and in compliance with this Ordinance by the Applicant's Engineer; or,

B. An Improvements Construction Guarantee in accord with §703 and the Pennsylvania Municipalities Planning Code has been accepted by the Supervisors.

Any approval granted by the Supervisors for any improvement required by this Ordinance shall be for subdivision and/or land development approval purposes only and shall not constitute in any manner an approval for dedication of any improvements to the Township.

For Non-Residential Land Developments in which no subdivision is to take place and all required improvements are to remain privately owned and maintained the Supervisors **may** consider an alternate method of guaranteeing the proper construction of the improvements other than the specific methods listed in Article VII. Alternate methods may include, but are not limited to, an ownership and maintenance agreement for all of the private owned improvements acceptable to the Township or a partial financial guarantee in accordance with Section 703 in an amount determined by the Township to restore the subject property to pre-development conditions with respect to site stormwater runoff, stabilization, topography and aesthetics.

SECTION 701

PA DOT REQUIRED IMPROVEMENTS

An applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Pennsylvania Department of Transportation in connection with the issuance of a Highway Occupancy Permit pursuant to §420 of the Act of June 1, 1945 (P.L. 1242, No.428) known as the "State Highway Law."

SECTION 702

SECTIONS/STAGES

In cases where Final Plan approval is proposed in sections or stages, the Supervisors shall require the construction or guarantee of any and all development improvements required for the service or protection of any section or stage of the development proposed for final approval.

SECTION 703

IMPROVEMENT CONSTRUCTION GUARANTEES

703.1 Acceptable Guarantees

The following are acceptable forms of improvement construction guarantees:

703.1.1 Surety Performance Bond - A security bond from a surety bonding company authorized to do business in the Commonwealth of Pennsylvania and approved by the Supervisors. The bond shall be payable to Black Creek Township.

703.1.2 Escrow Account - A deposit of cash either with the Township or in escrow with a financial institution where the Township is the signatory. The use of a financial institution for establishing an escrow account shall be subject to approval by the Supervisors.

703.1.3 Irrevocable Letter of Credit - A letter of credit provided by a Developer from a financial institution or other reputable institution subject to the approval of the Supervisors.

703.1.4 Other Forms - Other forms of collateral including, but not limited to, real estate mortgages as the Supervisors may require or accept as part of the security.

703.1.5 Additional Requirements - The following requirements shall apply to the financial guarantees set forth in §703.1:

- A. The funds of any guarantee shall be held in trust until released by the Supervisors and may not be used or pledged by the Developer as security in any other matter during that period.

- B. In the case of a failure on the part of the Developer to complete said improvements, the institution shall immediately make the funds available to the Supervisors for use in the completion of those improvements approved as part of the final plan and as may be required to service any lots or dwelling units as determined by the Supervisors.

- C. The creditor shall guarantee funds in the amount required by this Ordinance.

- D. The guarantee shall not be withdrawn, or reduced in amount, until released by the Supervisors.

703.2 Amount of Security

The amount of financial security to be posted for the completion of the required improvements shall be equal to one hundred ten percent (110%) of the cost of completion estimated as of ninety (90) calendar days following the date scheduled for completion by the Developer. Annually, the Supervisors may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th calendar day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Supervisors may require the Developer to post additional security in order to assure that the financial security equals said one hundred ten percent (110%). Any additional security shall be posted by the Developer in accord with this §703.

- A. The amount of guarantee required shall be based upon an estimate of the cost of completion of the required improvements, prepared by the developer's engineer licensed as such in Pennsylvania and certified in writing by such engineer to be a fair and reasonable estimate of such cost. The Supervisors, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant and the Supervisors are unable to agree upon an estimate, then the estimate shall be recalculated and certified by another professional engineer licensed as such in Pennsylvania and chosen

mutually by the Supervisors and the developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid by the Applicant or Developer.

B. If the Developer requires more than one (1) year from the date of posting the guarantee to complete the required improvements, the amount of the guarantee shall be increased by an additional ten percent (10%) for each one (1) year period beyond the first anniversary date of posting the guarantee or to an amount not exceeding one hundred ten percent (110%) of the cost of completing the improvements as reestablished on or about the expiration of the preceding one (1) year period as estimated using the procedure established by this §703.2.

703.3 Terms of Guarantee

Construction guarantees shall be submitted in a form and with such surety as approved by the Supervisors to assure that all improvements shall be completed within a fixed period of time but not to exceed five (5) years from the date of Preliminary Plan approval.

703.4 Release of Improvement Construction Guarantees

703.4.1 - Partial Release - The Developer may request the release of such portions of the construction guarantee for completed improvements.

A. Request - All such requests shall be in writing to the Supervisors with a copy to the Township Engineer and shall include a certification from the Developer's engineer that the subject improvements have been completed in accordance with the approved plans and Township standards.

B. Inspection - Within forty-five (45) calendar days of receipt of such request the Supervisors shall direct the Township Engineer to inspect the subject improvements and certify, in writing, to the Supervisors the completion in accord with the approved plans and Township standards; and, the Supervisors shall authorize release of such portion of the construction guarantee established by the Township Engineer to represent the value of the completed improvements. If the Supervisors fail to act within said forty-five (45) calendar day period, the Supervisors shall be deemed to have approved the release of funds as requested. The Supervisors may, prior to final release at the time of completion and certification by the Township Engineer, require retention of ten percent (10%) of the estimated cost of the aforesaid improvements.

703.4.2 Final Release - When the Developer has completed the construction of all required improvements the Developer shall so notify the Supervisors.

A. Notification - Such notification shall be in writing, by certified or registered mail, with a copy to the Township Engineer and shall include a certification from the Developer's Engineer that all required improvements have been completed in accordance with the approved plans and Township standards.

B. Inspection - Within ten (10) calendar days of receipt of said notice, the Supervisors shall direct and authorize the Township Engineer to make a final inspection of the subject improvements.

C. Report - The Township Engineer shall, within thirty (30) calendar days of said authorization, file a detailed written report with the Supervisors with a copy mailed to the Developer by certified or registered mail, recommending approval or rejection of said improvements either in whole or in part; and, if said improvements or any portion thereof, shall not be approved or shall be rejected, said report shall contain, by specific Ordinance reference, a statement of reasons for non-approval or rejection.

D. Action - Within fifteen (15) calendar days of receipt of the Township Engineer's report, the Supervisors shall act upon said report and shall notify the Developer, in writing by certified or registered mail of their action. If the Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the Developer shall be released from all liability pursuant to its performance guaranty.

E. Rejected or Unapproved Improvements - If any portion of the subject improvements are not approved or are rejected by the Supervisors, the Developer shall proceed to rectify and/or complete the same and, upon completion, the same procedure of notification, as outlined in §703.4.2,A shall be followed.

F. Remedies to Effect Completion of Improvements - In the event that any improvements which may be required have not been installed as provided in this Ordinance or in accord with the approved plan, the Supervisors may enforce any corporate bond, or other guarantee by appropriate legal and equitable remedies. If proceeds of the guarantee are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by the said

security, the Supervisors may, at its option, install part of such improvements in all or part of the subdivision and/or development and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the guarantee or from any legal or equitable action brought against the Developer, or both, shall be used solely for the installation of the improvements covered by such security and not for any other Township purposes except for reimbursement of Township court costs, reasonable attorney fees and other costs of enforcement.

SECTION 704 IMPROVEMENTS CONSTRUCTION

This section shall apply to all construction of improvements whether the improvements are completed prior to final plan approval or guarantees are provided.

704.1 Construction Plans and Drawings

The construction of any improvements shown on an approved Preliminary Plan or in conjunction with the Final Plan application and guarantee proposal, shall be accomplished only in accord with the approved final construction plans detailing the design and installation of all improvements and documenting compliance with this Ordinance.

704.2 Schedule

The Developer shall, at least fifteen (15) calendar days prior to the initiation of construction of any required improvements, submit to the Township a schedule of construction for all required improvements, including the timing of the development of any proposed sections. The schedule may be revised from time to time upon mutual agreement of the Applicant Engineer and the Township Engineer.

704.3 Inspections

Based upon the construction schedule and the nature of the required improvements and within fourteen (14) calendar days of receipt of the said construction schedule, the Township Engineer shall prepare Township inspection requirements to ensure the construction of the required improvements in accord with the approved plan and Township standards. In addition to all final inspections required for all improvements, inspections shall be required at all phases of construction when a failure to inspect would result in a physical impossibility to verify compliance at the time of the final inspection (e.g., the

construction of underground stormwater detention facilities, the construction of roadways, and the backfilling of sewer main, water main, and stormdrain pipe trenches).

704.4 Notice

The Developer shall provide a minimum of five (5) working days notice prior to the time when construction will have proceeded to the time of a required inspection. Construction shall not proceed further until the Township Engineer conducts the inspection and approves the improvements.

704.5 Cost

The cost of all inspections conducted by the Township shall be borne by the Developer.

SECTION 705

IMPROVEMENT MAINTENANCE GUARANTEE

705.1 Guarantee

Before final approval of a roadway or facility is granted, the Developer shall provide to the Township a maintenance guarantee in an amount determined by the Supervisors but not more than fifteen percent (15%) of the cost of all required improvements as estimated by the applicant's engineer and approved by the Township Engineer.

A. Such maintenance guarantee shall be in such form as prescribed in §703.1 and shall guarantee that the Developer shall maintain all improvements in good condition during the eighteen (18) months after the completion of construction or installation and final approval of all improvements. If the Developer is negligent or fails to maintain all improvements in good condition during the eighteen (18) month period, the Supervisors may enforce the maintenance guarantee, bond or other surety by appropriate and equitable remedies. If proceeds of such bond or other sureties are insufficient to pay the cost of maintaining the improvements during the said eighteen (18) month period, the Supervisors, at its option, may institute appropriate legal or equitable action to recover the monies necessary for maintaining the improvements in good condition.

B. After the expiration of the eighteen (18) months from the date of the final approval of the subject improvements and if all improvements are certified by the Township Engineer to be in good condition, the Supervisors shall release the said maintenance guarantee and surety to the Developer or party posting the said maintenance guarantee and surety.

705.2 Central Sewage Guarantee

This section shall only apply if guarantees are not required by third party facility owner.

A. In lieu of the requirements of §705.1 above, the Supervisors may require a guarantee from the Developer for the maintenance, operation and repair of any central sewage system for three (3) years after completion of construction. Said bond shall be posted immediately after the system receives final approval and before it is put into operation.

B. In instances where the system use will not reach operational capacity within a period of one (1) year, however, the Supervisors may require that such guarantee provide for the maintenance and operation of the system for a period of three (3) years from the time operational capacity is reached. The amount of said maintenance guarantee shall be determined by the Supervisors but shall generally not exceed twenty-five (25) percent of the estimated cost of the system as verified by the Township Engineer.

C. Upon the expiration of the term of the maintenance guarantee, the Supervisors shall release said maintenance guarantee, provided that the system has been properly maintained and operated during the term of the guarantee and is currently operating properly and in conformance with the applicable DEP discharge requirements. In the event the system is not so maintained and operated, the Supervisors, at any time during the term of the guarantee and upon thirty (30) calendar days notice, shall have the right to declare a forfeiture of a portion or all of the said maintenance guarantee, depending on the extent of the lack of maintenance and proper operation, and shall use the proceeds for such maintenance and corrective measures as shall be required. If proceeds of such bond or other surety are insufficient to pay the cost of maintaining the improvements during the said three (3) year period, the Supervisors, at its option, may institute appropriate legal or equitable action to recover the monies necessary for maintaining the improvements in good condition.

SECTION 706 CONTINUED OWNERSHIP AND MAINTENANCE OF IMPROVEMENTS

The Developer shall provide to the satisfaction of the Supervisors, and prior to Final Plan approval, evidence of the provision for the succession of ownership and responsibility for maintenance of development improvements.

706.1 Private Operation and Maintenance

706.1.1 Land Developments - In the case of land developments such provision shall be in the form of deed covenants and restrictions clearly placing the responsibility of maintenance of all development improvements with the owner of the land development.

706.1.2 Residential Developments -In the case of subdivisions, cluster developments, multi-family housing projects and other residential developments involving the transfer of property, the Developer shall provide, by deed covenants and restrictions, for the creation of a Property Owners Association (POA), or equivalent entity, to assume the ultimate ownership of all development improvements and responsibility for maintenance of such improvements. Membership in the POA shall be mandatory for all property owners in the development. The developer shall also be a member of the POA and shall remain responsible for payment of any per lot dues or fees assessed by the POA which are associated with improvements serving said lots. The deed covenants and restrictions creating the POA shall be approved by the Supervisors.

706.1.3 Any Improvements Which Will Remain Private - In the case where roads, drainage facilities, a central sewage treatment system or central water supply, or any other improvements are to remain private, the Developer shall provide for the establishment of an escrow fund in accord with §703.1 to guarantee the operation and maintenance of the improvements. Said fund shall be established on a permanent basis with administrative provisions approved by the Supervisors. The amount of said fund shall be established by the Supervisors, but in no case shall be neither less than fifteen (15) percent nor more than twenty-five (25) percent of the construction cost of the system as verified by the Township Engineer. The maintenance and operation of the improvements and the administration of any required maintenance fund account shall be clearly established as the joint responsibility of the owner(s) of each structure or dwelling unit served by such system. Such responsibility and the mechanism to accomplish same shall be established by deed covenants and restrictions that shall be approved by the Supervisors.

706.1.4 Failure To Operate and Maintain Improvements - If any private improvements are not operated or maintained adequately to assure the function of said improvements consistent with Township requirements and/or the needs of the users of said improvements, the Supervisors shall have the right to perform said operation and maintenance to meet the intent of this Ordinance and otherwise protects the public health, safety and welfare. The Supervisors shall use any and/or all legal authority and remedies in law available to accomplish same and shall assess the legal, construction, and other costs for same to the person(s) responsible for or benefiting from said proper operation and maintenance. Such actions may include, but are not limited to, those prescribed in Article IX of this Ordinance, injunctive relief, or the formation of special districts to assess costs.

706.2 Dedication to Township

Where a plan includes a proposed dedication of roads, neither the plan approval nor the Developer's completion of the roads shall obligate the Supervisors to accept the roads. Acceptance of a proposed dedication shall be a matter of discretion for the Supervisors. If determined by the Supervisors to be in the interest of the public health, safety and general welfare, the Supervisors may accept roads and associated drainage facilities, but shall generally not accept any stormwater control facilities used to manage stormwater within any subdivision or land development, sewage disposal systems, water supply systems, sidewalks, or other improvements unless the Supervisors deems it necessary to fulfill the purposes of this Ordinance or the Township Official Wastewater Facilities Plan. In accepting any improvements the Supervisors may attach such reasonable conditions necessary to fulfill the purposes of this Ordinance.

SECTION 707 OPEN LAND AND RECREATION LAND - OWNERSHIP AND MAINTENANCE

This §707 shall apply to any development that involves the ownership and maintenance of open land or recreation land held in common or owned and maintained through other arrangements approved by the Supervisors (referred to as "common open space") as required by this Ordinance.

707.1 Purpose

The requirements of this §707 are intended to assure in perpetuity the ownership, use and maintenance of common open space. The general principle shall be to assign ownership and maintenance responsibility to that entity which is best suited for the same and which will allocate any associated costs to the individuals that directly benefit from the use of the common open space.

707.2 Plan and Legal Documents

The Developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common open space. The Plan shall be approved by the Supervisors with the recommendation of the Township Solicitor. The provisions of the approved Plan shall be incorporated into a development agreement with the Township, deed covenants and restrictions, or other legal document that will effect the Plan and which can be enforced by the Supervisors.

- A. The Plan shall define ownership.

- B. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e., lawns, playing fields, meadow, pasture, crop land, woodlands, etc.).

- C. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the conservation open space and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.

- D. The Supervisors may require the applicant to escrow sufficient funds for the maintenance and operation costs of common facilities for up to 18 months.

- E. Any changes to the maintenance plan shall be approved by the Supervisors.

707.3 Use Restriction

The use of any common open space shall be limited to those uses which are specifically permitted or required by the applicable sections of this Ordinance and the Township Zoning Ordinance.

707.4 Development Plan Designations

The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common open space and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal documents) governing the use, ownership and maintenance of common open space shall be noted on the plan. The plan shall also contain the following statement: "Common open land, common recreation land, common facilities and development improvements shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development."

707.5 Methods for Use Dedication and Common Open Space Ownership and Maintenance

The use of common open space and common open space ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Supervisors that the chosen method(s) will preserve the common open space use rights established in accord with this Article and provide for the perpetual ownership and maintenance of all open land, and recreation land. All methods shall establish a mechanism for the Supervisors to effect the use dedication and require operation and maintenance of common open space, if the means established by the Developer fail to provide the same. All methods for use dedication and common open space ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Supervisors. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of development improvements and common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

707.5.1 Property Owners Association or Condominium Agreements - All common open space may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot and/or condominium owners in the development provided:

A. The POA/CA is established by the Developer as a nonprofit corporation for the express purpose of ownership and maintenance of the common open space, or as otherwise may be required by state statute.

B. Participation in the POA/CA is mandatory for all owners.

C. Provision is made for the maintenance of common open space during the sale period and the orderly transition of responsibility from the Developer to the POA/CA.

D. The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common open space responsibilities.

707.5.2 Transfer to a Private Conservation Organization - In the case of open land and recreation land, the landowner may transfer fee simple title to the said areas, or parts thereof, to a private, non-profit organization among whose purposes is the conservation of open land and/or natural resources; provided that:

A. The deed contains the necessary covenants and restrictions in favor of the Township to affect the use dedication and common open space ownership and maintenance standards of this Article and this Ordinance.

B. The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by the Supervisors.

C. The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization be unable to continue to execute the provisions of title.

D. A maintenance agreement among the Developer, organization and Township is executed to the satisfaction of the Supervisors.

707.5.3 Deed Restricted (Non-Common) Private Ownership - Deed restrictions on privately held lands may be used to preserve open land provided such restrictions include a conservation easement in favor of the Township, with provisions for reversion to the Township, POA or trustee holding the remainder of the common open space. Up to eighty percent (80%) of the required conservation open space may be included within one or more large conservancy lots of at least ten (10) acres provided the open space is permanently restricted from future development through a conservation easement, except for those uses permitted for conservation open space by the Township Zoning Ordinance, and that the Supervisors is given the ability to enforce these restrictions. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

707.5.4 Deed or Deeds of Trust - The landowner may provide, as approved by the Supervisors, for the use, ownership and maintenance of common open space by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.

707.5.5 Conservation Easements Held by the Township - In the case of open lands and recreation lands, the Supervisors may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA/CA, while the development rights are held by the Township. The lands may be used in accord with the requirements of this Ordinance; and, title to such lands may be transferred to other parties for use as restricted by the conservation easement.

707.5.6 Fee Simple and/or Easement Dedication to the Township - In the case of open lands or recreation lands, the Supervisors may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:

A. There is no consideration paid by the Township.

B. Such land is freely accessible to the public.

C. The Supervisors agree to and has access to maintain such lands.

707.6 Failure to Preserve Dedication of Use and Operation and

Maintenance of Common Open Space - If the method established for the dedication of use, operation, and maintenance of common open space fails to do so in reasonable order and condition in accord with the approved development plan, the Supervisors shall have the right and authority to take all necessary legal action to effect such use dedication, operation, and maintenance. The action of the Supervisors shall be in accord with the following:

707.6.1 Notice - The Supervisors shall serve written notice on assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common open space.

707.6.2 Correction of Deficiencies - The notice shall include a demand that the deficiencies be corrected in a reasonable period of time that shall be stated in the notice.

707.6.3 Public Hearing - A public hearing shall be conducted subsequent to the notice and shall be advertised in accord with the definition of "public notice" contained in this Ordinance. At such hearing, the Supervisors may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.

707.6.4 Failure to Correct - In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Supervisors may enter upon the common open space and maintain the same and/or correct the deficiencies. The Supervisors shall continue such action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common open space, nor vest in the public the right to use any common open space.

707.6.5 Reinstatement of Responsibility - The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to the Supervisors that the proper steps have been affected to modify the terms of use dedication, operation, and/or maintenance; and/or, to reorganize or replace the responsible entity so that use dedication,

operation, and maintenance established by the approved development plan will be assured.

707.6.6 Appeal - Any party to the action of the Supervisors may appeal such action to court as provided for in the Pennsylvania Municipalities Planning Code, as amended.

707.6.7 Public Costs - The costs of the preservation of use dedication, maintenance and operation of any open land conducted by the Township in accord with this Article, including any administrative and legal costs, shall be assessed ratably against the properties in the subject development which have a right of enjoyment and/or use of the common open space. The assessment shall be made a lien on the properties; and, the Supervisors shall, at the time of the notice in §707.6.1 above, file the required notice of lien against the properties.

SECTION 708

SUBDIVISION AND/OR LAND DEVELOPMENT IMPROVEMENTS AGREEMENT

All applicants proposing any subdivision and/or land development requiring the installation of improvements as required by this Ordinance shall, prior to final plan approval by the Supervisors, and, if so directed by the Supervisors, enter into a legally binding development agreement with the Township whereby the developer guarantees the installation of the required improvements in accord with the approved plan and all Township requirements.

708.1 Contents

The development agreement shall be in a form suitable for execution by the Supervisors and shall provide for the following, at a minimum, where applicable:

A. The construction of all facilities authorized by the approved plans (streets, drainage, etc.) in itemized format, including the title and latest date of revision the itemized list is referring to.

B. Installation of survey monuments and lot markers.

C. Installation of all stormwater facilities, water, sewer, and utility lines.

D. Prevention of erosion, sedimentation and water damage to the subject, adjacent and downstream properties.

E. Developer's responsibility for any damages to adjacent or neighboring properties.

F. A work schedule setting forth the beginning and ending dates, and such other details as the Supervisors deems fit and appropriate, for improvements contained herein, including the timing of the development of any proposed sections.

G. The estimated cost of the improvements not yet completed, including the amount of performance guarantee to be submitted.

H. Security in the form of a construction guarantee approved by the Supervisors to ensure the installation of the required improvements.

I. Security in the form of a maintenance guarantee approved by the Supervisors for the repair or reconstruction of improvements which are found by the Township Engineer to be defective within eighteen (18) months from the date of formal acceptance of the said improvements, together with provisions for disbursement thereof.

J. A set of reproducible "AS BUILT" plans prepared by and certified to by a Registered Professional Engineer and/or a Registered Professional Surveyor of all roadways and streets, bridges, drainage systems, sewage collection and treatment systems, water distribution systems and all other required or provided improvements.

K. Ownership of all improvements.

L. Public liability insurance for the duration of improvements construction. A copy of the said policy or other evidence of coverage shall be submitted to the Supervisors.

M. A hold harmless clause to protect the Township from any and all liability.

N. The Developer's responsibility for all reasonable engineering and consulting costs and expenses for inspection, consultations, and preparation of agreements, to the extent such costs and expenses exceed the monies paid by the Developer in accordance with the standard fee schedules.

O. Provisions for changing the approved final plan, supporting plans, profiles, data, specifications and related documents.

P. Provisions for violations of the development agreement.

Q. Provisions for severability of any article.

R. Provisions for any additional agreements deemed necessary.

Note: Additional clauses may be required by the Township Planning Commission, Board of Supervisors, Solicitor and/or Township Engineer depending on the nature of the project.

708.2 Execution

The final plan shall not be approved by the Supervisors prior to the execution of this agreement, if so required by the Supervisors.

ARTICLE VIII

Mobile Home Park Design Standards

SECTION 800 GENERAL REQUIREMENTS

The general design standards and required improvements of Articles VI and residential design standards shall apply to mobile home park subdivisions or developments even though streets will not be submitted for dedication. The following additional standards shall also apply to mobile home developments.

SECTION 801 ZONING REGULATIONS

Provisions of the Zoning Ordinance as they apply to mobile home parks shall be adhered to.

SECTION 802 SPECIFIC DESIGN STANDARDS

A. Site Location: A mobile home park shall be located on land of a minimum parcel size of ten (10) acres and having a reasonably flat terrain (an average slope of eight percent (8%) or less). The land area shall be free from swamps, marshes, garbage, excessive noise, smoke or other elements generally considered detrimental to residential development. The location shall be free from flooding by a one hundred (100) year flood and shall have access to public roads.

B. Placement of Mobile homes: Each mobile home site shall be provided with a stand or pad consisting of two (2) concrete strips extending from the edge of the paved cartway to accommodate the wheels of the mobile home. The poured concrete base shall measure one (1) foot deep, three (3) feet wide and seventy (70) feet long for each of the two strips. Each mobile home site shall also be provided with a poured concrete outdoor patio six (6) inches deep and at least one hundred eighty (180) square feet in area at the main entrance to the mobile home. The mobile home shall be required to be provided with anchors and tie-downs that are able to sustain a total tensile load equal to four (4) times the weight of the particular mobile home.

- C. Mobile home Lot and Parking Requirements:** Lot area, dimension, setback and coverage regulations shall comply with the Zoning Ordinance. Parking requirements for each mobile home lot shall also comply with the requirements of the Zoning Ordinance.
- D. Buffer Areas:** All mobile home parks shall be bounded by a wooded buffer area seventy five (75) feet in depth as measured at right angles to the tract boundary lines. This space shall be used for no other purpose but landscaping, except where access roads cross it.
- E. Recreation Areas:** A mobile home park shall comply with Section 624, Recreational Area Requirements.
- F. Laundromats:** At least one (1) laundromat shall be provided for every mobile home park for the exclusive use of residents of that park. At least one (1) washer for every ten (10) mobile homes and one (1) dryer for every fifteen (15) mobile homes shall be provided. The structure housing and laundry facilities shall be easily accessible to all residents of the mobile home park. The water and sewerage systems serving the laundromat shall satisfy all requirements of the Pennsylvania Department of Environmental Protection.
- G. Utilities:** All utilities serving mobile home lots shall be placed at depths required by the relevant utility. If no utility company's standards are available, water and sewer shall be placed a minimum of five (5) feet deep and other utilities a minimum of three (3) feet. Each mobile home in the park shall be served by community water and sewerage systems as well as with electric and other utilities.
- H. Drainage:** Storm drainage from roofs and paved areas shall be channeled to natural drainage courses and away from adjoining properties and public roads. Trees and shrubbery shall be maintained on the property of the mobile home park and on every lot within the park for absorption of water runoff and hence for flood protection. Storm drainage shall also be handled to the requirements prescribed in Section 620 of this Ordinance and the Black Creek Township Stormwater Management Ordinance.
- I. Storage Sheds:** Each mobile home park shall provide to each mobile home an enclosed storage shed or partitioned space in such a shed, either of which shall have at least three hundred sixty (360) cubic feet and shall be located within one hundred fifty (150) feet of said mobile home.

- J. Refuse Storage:** Each mobile home shall provide its own garbage and refuse containers in accordance with Township regulations pertaining to garbage and other solid wastes, or the mobile home park owner shall provide a dumpster and private hauling service where individual mobile homes cannot be served.
- K. Sewerage Systems:** Each mobile home lot shall be provided with at least a four (4) inch diameter vertical riser pipe that connects 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 directed away from the riser. The rim of the riser pipe shall extend at least six (6) inches above ground elevation.
- L. Water Systems:** Each mobile home lot shall have a frost-free water riser pipe which connects the mobile home water system to the central water system. An outside hose bib shall be supplied for each mobile home.
- M. Sidewalks:** All mobile home parks shall be provided with safe, convenient, all season, pedestrian walks of a surface, depth and width approved by the Township Engineer between individual mobile homes and streets and to all park facilities provided for the residents. Walkways serving park facilities shall have a minimum width of four (4) feet.
- N. Parking Areas:** Parking spaces shall be provided as required by the Zoning Ordinance. All parking spaces for mobile home lots shall be paved.
- O. Ingress and Egress:** Access drives to public streets from a mobile home park shall comply with Article VI of this ordinance. Streets within the mobile home park shall be constructed to Township specifications as described in Article VI, except that one way streets shall be allowed, provided access by fire and other emergency vehicles is not impaired and provided the street plan is reviewed and approved by the Township Engineer.
- P. Street Signs:** Street identification signs shall be provided for all streets at every intersection in the mobile home park. Such signs shall be purchased and installed by the developer.

ARTICLE IX

Administration

SECTION 900 PURPOSE

The purpose of this Article is to establish the procedures for the amendment, administration and enforcement of this Ordinance.

SECTION 901 AMENDMENT

Amendments to this Ordinance shall become effective only after a public hearing held pursuant to public notice in the manner prescribed in the MPC.

SECTION 902 WAIVERS/MODIFICATIONS

902.1 Intent

The provisions of this Ordinance are intended as a minimum standard for the protection of the public health, safety, and welfare. If the literal compliance with any mandatory provision of these regulations is shown by the applicant, to the satisfaction of the Supervisors, to be unreasonable or to cause undue hardship as it applies to a particular property; or, if the applicant shows that an alternative proposal will allow for equal or better results, the Supervisors may grant a waiver from such mandatory provision so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a waiver/modification shall not have the effect of making null and void the intent and purpose of this Ordinance.

902.2 Conditions

In granting waivers/modifications, the Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

902.3 Procedure

All requests for waivers/modifications shall be in writing, shall accompany and be made a part of the development application, and shall include:

- A. The specific sections of this Ordinance in question.
- B. Provisions for the minimum modification necessary as an alternate to the requirements.
- C. Justification for the waiver/modification, including the full grounds and facts of unreasonableness or hardship.
- D. Although action on the modification request shall be taken by the Supervisors all modification requests must be first presented by the applicant or agent at a Planning Commission meeting for their recommendation. Once a recommendation has been made by the Planning Commission the modification request will be placed on the agenda of the next regular Supervisors meeting for their action. A representative must be present at the Supervisors meeting also to present the modification request.

902.4 Action

If the Supervisors deny the request, the applicant shall be notified, in writing, of the reasons for denial. If the Supervisors grant the request, the final record plan shall include a note which identifies the waiver/modification as granted. In any case, the Supervisors shall keep a written record of all actions on all requests for waivers/modifications.

SECTION 903

PREVENTIVE AND ENFORCEMENT REMEDIES

903.1 Preventive Remedies

A. In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of

selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

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

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

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

C. In the event that any applicant or owner of any property fails to obtain the proper sewage permit for any required on-site sewage disposal system, or takes such action or causes any action which results in the revocation of any sewage permit by the Township Sewage Enforcement Officer, the Township shall have the authority to withhold the issuance of any certificate of use for any structure on the said property and/or to take any appropriate actions by law or in equity to prohibit the occupancy of any such structure.

903.2 Enforcement Remedies

A. Any person, partnership or corporation who or which has violated the provisions of this Subdivision and Land Development Ordinance or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney, witness, and consultant fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the initial determination of a violation by the District Justice and, thereafter, each day that a violation continues shall constitute a separate violation.

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

C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section including, but not limited to, injunctive relief.

903.3 Jurisdiction

District Justices shall have initial jurisdiction in proceedings brought under §903.2.

903.4 Transfer

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

903.5 Construction

In the case of subdivisions, no person shall proceed with any development, site grading or construction of improvements prior to the approval of a preliminary plan in accord with this Ordinance. In the case of land developments, no person shall proceed with any development, site grading or construction of improvements prior to the authorization to proceed issued in accord with this Ordinance. No deeds shall be executed or recorded for the transfer of any lots or units before the Township has approved the Final Plan and such Plan is filed with the Luzerne County Recorder of Deeds.

SECTION 904 FEES

904.1 Application and Review Fees

A. Application fees shall be payable to the Township and established by resolution of the Township Supervisors.

B. Review fees shall be payable to the Township and may include reasonable and necessary charges by the municipality's professional consultants for review and report thereon to the municipality.

904.2 Final Fees

At the time of filing, the Final Application shall be accompanied by a check payable to the Township in an amount determined by the Township sufficient to cover the cost of:

- A. Reviewing engineering details.
- B. Inspecting the site for conformance.
- C. Evaluating cost estimates of required improvements.
- D. Inspection of required improvements during installation.

E. Final inspection or reinspection on completion of installation of required improvements.

F. Fees charged by the County Planning Commission and fees for other related consulting services.

904.3 Adjustment

Prior to the final approval of any application, the Township will determine all costs incurred; and, to the extent that there has been an overpayment or an underpayment, there shall be a refund or a supplemental payment, as indicated.

904.4 Disputes

Disputes between the applicant and the Township regarding fees shall be settled pursuant to §503(1) and §510(g) of the Pennsylvania Municipalities Planning Code, as amended.

SECTION 905

RECORDS

The Township shall keep an accurate public record of its findings, decisions, and recommendations relevant to all applications filed for review or approval.

