

Subdivision and Land Development Ordinance of
The County of Westmoreland, Pennsylvania

December 19, 2013

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Article I. General Provisions

Section 1.01 Authority

This Ordinance is enacted pursuant to the authority granted to the County of Westmoreland under Article V of the Pennsylvania Municipalities Planning Code of 1968, Act 247. From and after the effective date hereof, the Westmoreland County Department of Planning and Development shall have the authority to regulate subdivision and land development as the official planning agency designated by the Board of Commissioners of the County of Westmoreland.

Section 1.02 Short Title

This Ordinance shall be known and may be cited as the “Subdivision and Land Development Ordinance of the County of Westmoreland.”

Section 1.03 Effective Date

This Ordinance shall take effect at 12:01 A.M. prevailing time, December 20, 2013.

Section 1.04 Repealer

The preceding subdivision regulations known as the “Subdivision and Land Development Ordinance of the County of Westmoreland” as adopted April 14, 1996 is hereby repealed as of the effective date of this Ordinance, except for sections expressly retained herein.

Section 1.05 Liability

The administration of the Ordinance shall not constitute a representation, guarantee, warranty of any kind by the County of Westmoreland Board of Commissioners, the Westmoreland County Department of Planning and Development, or any cooperating agency or municipality and shall not create any liability upon the County, its officials, or employees.

Section 1.06 Severability

The provisions of this Ordinance shall be severable, and if any of its provisions shall be held unconstitutional, illegal or invalid, such decision shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared as legislative intent of the Board of Commissioners of the County of Westmoreland that this Ordinance would not have been adopted if such illegal, invalid or unconstitutional provisions had been included herein.

Section 1.07 Provision of Reservation

This Ordinance shall not be construed as abating any action now pending under prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the County of Westmoreland under any section or provision of regulations existing at the time of adoption of this Ordinance, or as vacating or annulling any rights of the County of Westmoreland except as shall be expressly provided for in this Ordinance.

Section 1.08 Purposes

- (a) Provide the public with the assurance that conditions are created favorable to the health, safety, and general welfare of the public.
- (b) Establish reasonable standards of design and procedures for subdivision and land development review, in order to further the orderly layout of land and to promote Smart Growth Principles.
- (c) Provide the public with the assurance that necessary improvements will be provided in the new development in an amount and size commensurate with the size of the subdivision and land uses to which the land will be allocated.
- (d) Provide the public with the assurance that future plans, improvements, and dedications are reviewed and approved according to an established public policy.
- (e) Provide the public with the assurance that lands subject to natural hazard or other harmful conditions shall be either be made safe for the purposed for which such land is proposed, or that such land shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.
- (f) Adopt and administer regulations which implement the policies and objectives of the Westmoreland County Comprehensive Plan.
- (g) Adopt Conservation Subdivision regulations which promote the conservation of the natural environment and which promote a greater choice of residential and neighborhood design alternatives.

Section 1.09 Jurisdiction

The powers of this Ordinance shall be limited to land in those municipalities, wholly or partly within the County of Westmoreland, which have not adopted a subdivision and land development ordinance in effect at the time of adoption of the “Westmoreland County Subdivision and Land Development Ordinance,” and until such municipality shall adopt a subdivision and land development ordinance, and a certified copy of such ordinance is filed with the Westmoreland County Department of Planning and Development. The enactment of a subdivision and land development ordinance by any municipality, other than the County of Westmoreland, whose land is subject to the “Westmoreland County Subdivision and Land Development Ordinance,” shall act as a repeal protanto of the “Westmoreland County Subdivision and Land Development Ordinance” within the municipality adopting such an ordinance.

Section 1.10 Application of Ordinance

- (a) The provisions of this Ordinance shall apply to all subdivisions and land developments whose plans have not been recorded in the Office of the Recorder of Deed in and for the County of Westmoreland, prior to the effective date of this Ordinance.
- (b) The scope of the Ordinance shall include all matters the County of Westmoreland is authorized to exercise control over by enactment of this Ordinance including, but not limited to:
 - (i) All improvements within any tract or parcel undergoing subdivision or land development including, but not limited to streets, sewer systems, sewage disposal systems, water systems, and drainage facilities which border upon any such tract or parcels
 - (ii) The improvement of facilities adjacent to any tract or parcel undergoing subdivision or land development
 - (iii) The installation or extension of off-site improvements needed to adequately serve the subdivision or land development.

Article II. Definitions

The word PERSON includes and shall mean a firm, association, organization, partnership, trust, company or corporation as well as an individual or individuals; the present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular, the word SHALL is mandatory, the MAY is permissive; the word LOT includes and shall mean the words TRACT and PARCEL

ABUTTING: Having a common border with, or being separated from such common border by a Right-of-Way, Alley or Easement.

ACCESS DRIVE: A private restricted use drive providing vehicular access to and between parking areas for more than two parking spaces within a Land Development; or any drive servicing two or more units of occupancy on a single Lot.

APPLICANT: A landowner, developer, or the agent thereof, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns. (Also see “Developer”).

APPLICATION: Every application, whether preliminary or final, required to be filed and approved prior to start of construction or development.

AVERAGE ANNUAL DAILY TRAFFIC (AADT): Computed by application of a day of the week by month factor to an average twenty-four (24) hour traffic count. Such information is available in the latest volume of the Pennsylvania Department of Transportation Traffic Data Collection and Factor Development Report.

BUILDING LINE: A line which designates the minimum distance that a building must be erected from a street right-of-way. Said line is a specified distance from and generally parallel to, the street right-of-way line or lines, upon which the lot abuts.

CARTWAY: A portion of the street right-of-way surfaced for vehicular use. Width is determined from face of curb to face of curb or from one edge of driving surface to the other edge of driving surface.

CLEAR SIGHT TRIANGLES: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of a street centerline.

COMMON SPACE: A parcel or parcels of land or an area of water, or a combination of land and water, within a development and designed and intended for the use or the enjoyment of residents of the development, excluding streets, off-street parking areas, areas set aside for public facilities and private yards.

CONDOMINIUM: A form of ownership of real property, as defined in the Pennsylvania Uniform Condominium Act of 1980, which includes a multiple unit Land Development in which there is a system of separate ownership of individual units of occupancy and undivided interest of land and common facilities.

DEDICATION: The deliberate appropriation of land, or improvements, by the owner for any general or public use, reserving unto himself no other rights than such as are compatible with the full exercise and intent of the public use to which property has been appropriated.

DEPARTMENT: The Westmoreland County Department of Planning and Development.

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. (Also see APPLICANT).

DEVELOPMENT: Any application for preliminary or final plan of a subdivision of land or land development.

DWELLING UNIT: A structure or portion thereof intended to be used for non-transient residence, whether owner occupied, leased or rented, including:

SINGLE-FAMILY DETACHED: A free standing dwelling unit intended for single family occupancy.

MULTI-FAMILY ATTACHED: A structure providing two or more dwelling units, each unit intended for single family occupancy and designed with a common structure entrance.

CONVERSION UNIT: A single family detached or single family attached dwelling unit structurally modified to provide not more than three dwelling units, each unit intended for single family occupancy.

EASEMENT: A strip of land granted for limited use of property by the Landowner for a public or quasi-public or private purpose, and within which the owner of the property shall not have the right to make use of the land in a manner that violates the right of the grantee.

ELEVATION: The vertical alignment of a surface, as it exists or as it is made by cut and/or fill.

ENGINEER: A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a local governing body or lead agency, the Department or a local planning commission.

FRONTAGE: That portion of the property which abuts and is measured along the street right-of-way line.

GUARANTEE MAINTENANCE: Any security which may be required of a Developer by the Department or lead agency after final acceptance of the Department or lead agency for improvements installed by the Developer. Such security may include, but is not limited to, Federal or Commonwealth lending institution irrevocable letter of credit or restrictive or escrow account.

GUARANTEE IMPROVEMENTS: Any security which may be of a Developer by the department or lead agency in lieu of a requirement that certain improvements be made before the department grants final approval to the Development Plan.

HALF STREET / PARTIAL STREET: A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street. Half or partial streets shall be limited to collector, local and private streets.

IMPERVIOUS SURFACE: Material that is impenetrable and unable to absorb water, including, but not limited to, Buildings, Structures and paved areas.

IMPROVEMENT: Physical changes to the land, including, but not limited to, buildings, streets, curbs, gutters, street lights and signs, water mains, hydrants, sanitary sewer mains, including laterals to the street right-of-way lines, storm drainage lines, Storm Water management structures, walkways, recreational facilities, open space Improvements, shade trees, Buffer or screen plantings, and all other additions to the Tract which are required by ordinance or are deemed necessary to result in a complete Subdivision or Land Development in the fullest sense of the term.

LAND DEVELOPMENT: The development of property as specified below:

- A. 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 non-residential buildings, whether proposed initially or cumulatively, or a single non-residential building on a Lot or Lots, regardless of the number of occupants or tenure.
 - 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
- B. A Subdivision of land
- C. Land Development shall not include:
- a. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a Condominium.
 - b. The addition of an Accessory Building, including farm buildings, on a Lot or Lots subordinate to an existing principal building.
 - c. The addition or conversion of Buildings or rides within the confines of an enterprise that would be considered an amusement park. For purposes of this sub-clause, an amusement park is defined as a Tract or area used principally as a location for permanent amusement Structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved.

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

LEAD AGENCY: The council in cities, boroughs and incorporated towns, the board of commissioners in townships of the first, class; the board of supervisors in township of the second class; or as may be designated in the law providing for the form of government. The term shall also include boards created by the Municipal Authorities Act of 1945, as amended, County agencies and those entities that, in the judgment of the Department have jurisdiction over a particular improvement.

LOT: A building site that is described by reference to a recorded plan or by metes and bounds, which has direct legal access to a street or has access to a street over an easement approved by the Department and is intended as a unit for transfer of ownership or development.

LOT WIDTH: The horizontal distance between side lot lines measured along the building line as specified. When the street is curved, the measurement shall be made on the arc of the building line.

MUNICIPALITY: Any city of the second class A or their class, borough, incorporated town, township of the first or second class, county of the second class A through eighth class, or any similar general purpose unit of government which shall hereafter be created by the General Assembly.

PAVEMENT: See CARTWAY.

PERSON: Any individual, firm, trust, partnership, public or private association, or corporation.

PLAN: The map and supporting data of a subdivision or land development, whether preliminary or final.

PLAN / PRELIMINARY: A tentative development plan showing proposed street and lot layout as a basis for consideration and improvements prior to preparation of a final plan.

PLAN / FINAL: A complete and exact development plan prepared for official recording as required by this ordinance.

RIGHT-OF-WAY: The total width of any land reserved or dedicated as a street alley, or crosswalk, or for any other public or private purpose.

SEDIMENTATION: The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as sediment.

SIGHT DISTANCE: The length of road visible to the driver of a vehicle at any given point in the road when viewing is unobstructed by traffic as it pertains to the road design standards.

SMART GROWTH PRINCIPLES:

A set of ten principles that serve as the basis for development patterns of lasting value for the communities in which they are aspired to.

1. Strengthen and direct development toward existing communities
2. Foster distinctive, attractive communities with a strong sense of place
3. Encourage community and stakeholder collaboration in development decisions
4. Make development decisions predictable, fair, and cost effective
5. Preserve open space, farmland, natural beauty, and critical environmental areas
6. Mix land uses
7. Create a range of housing opportunities and choices
8. Take advantage of compact building design
9. Create walkable neighborhoods
10. Provide a variety of transportation choices

SOIL STABILIZATION: The chemical or structural treatment of a mass of soil to increase or maintain its stability or otherwise to improve its engineering properties.

SPECIAL FLOOD HAZARD AREA: The low areas adjoining and including a watercourse or the body of water such as a pond, marsh, lake, stream, etc., which are subject to inundation by a flood having a frequency of recurrence of one in one hundred years. The basis for delineation shall be prescribed by the Federal Emergency Management Agency.

STORMWATER: Water which surfaces, flows, or collects during and subsequent to rain or snowfall.

STREET: The right-of-way and cartway intended for general public use to provide means of approach for vehicles and pedestrians. The word “street” includes “road,” “roadway,” “highway,” or other similar designation.

- A. **ARTERIAL:** A street serving a large volume of comparatively high speed and long distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation. Average daily traffic is greater than or equal to 6,000.
- B. **COLLECTOR:** A street designed and located to provide means to drain traffic off local streets and to provide access for through traffic between residential neighborhoods and districts within a municipality to arterial streets and or a street used for access to non-residential properties, i.e., commercial, industrial, professional, etc. Maximum AADT is less than 6,000 and maximum design speed is 45 miles-per-hour.
- C. **LOCAL:** A street intended to serve and provide access to the properties abutting thereon and not connecting with other streets in such a manner as to encourage through traffic. AADT is less than or equal to 2,000. Maximum design speed is 35 miles per hour.
- D. **PRIVATE:** A local privately owned street, serving only abutting lots, that is not offered or required to be offered for dedication at the time of final plan review. All private streets are unrestricted in nature and extent and will not be accepted for dedication by the local governing body.
- E. **CUL-DE-SAC:** A local or private street intersecting another street at one end and terminating at the other end by a permanent circular vehicular turnaround.

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

SUBSTANTIALLY COMPLETE: Where, in the judgment of the engineer, at least 90% based on the cost of the required improvements for which financial security was posted pursuant to Section 509 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.

Article III. Administration

Section 3.01 Administration

All plans, applications and fees relating to subdivisions and land developments in areas under the jurisdiction of this Ordinance shall be submitted to, processed, and approved or denied by the Westmoreland County Department of Planning and Development, or as herein provided.

Section 3.02 Interpretation

These standards as herein established shall be deemed as minimum standards necessary to achieve the Purposes of this Ordinance. These standards may be modified by the Department provided that a particular circumstance of any subdivision or land development warrants such modification of the standards to assure the Purposes of this Ordinance. When any standard of this Ordinance shall conflict with any other duly adopted standard of any other regulatory agency, the Department shall designate the appropriate standard for the Purposes of this Ordinance.

Section 3.03 Modifications

The Subdivision and Land Development ordinance requirements are minimum standards for the protection and promotion of the public health, safety, and welfare. Modifications should only be granted; to encourage flexibility and ingenuity in the layout and design of Subdivisions and Land Developments when meeting the intent and purpose of the ordinance, when literal compliance would be unreasonable, cause undue hardship, or when an alternative standard is demonstrated to provide equal or better results and if the Modification would not be contrary to the public interest. All requests for modifications shall be in writing and included on the application provided by the Department.

Section 3.04 Conditions

The Department shall have the authority to attach reasonable conditions on any application submitted to the Department for review and approval. In granting a Modification, the Westmoreland County Department of Planning and Development may impose such conditions, as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance. The applicant has the duty of compliance with all conditions set forth by the Department. The Department may not release the approved plan, whether preliminary or final, until such conditions are completed. All conditional plan approvals shall be stipulated by the Department and agreed to by the Applicant.

Section 3.05 Plan Amendment

Any change in any approved subdivision or land development plan, as determined by the Department, shall be resubmitted and processed in the regular manner as set forth in this Ordinance.

Section 3.06 Preventive Remedies

- (a) In addition to other remedies, the municipality 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) A municipality may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of any ordinance adopted pursuant to this article. This authority to deny such a permit or approval shall apply to any of the following applicants:
 - (i) The owner of record at the time of such violation
 - (ii) 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.
 - (iii) 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.
 - (iv) 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 municipality 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.

Section 3.07 Enforcement Remedies

- (a) Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the County of Westmoreland, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the County of Westmoreland. No judgment shall commence or be imposed, levied or payable until the date of the determination or a violation by the district court. If the defendant neither pays nor timely appeals the judgment, the County of Westmoreland may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. 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. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the County of Westmoreland the right to commence any action for enforcement pursuant to this section.
- (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 municipality the right to commence any action for enforcement pursuant to this section.

Section 3.08 Right to Appeals

Any person, as heretofore defined, aggrieved by a finding, decision or recommendation of the Westmoreland County Department of Planning and Development with respect to the approval or disapproval of a Plan or request for modification may appeal as provided for in the Pennsylvania Municipalities Planning Code.

Section 3.09 Fees

Each Subdivision or Land Development Plan application shall be accompanied by the required review fee as established and adopted by ordinance or resolution by the County. Fees shall be payable to the Westmoreland County Department of Planning and Development at the time of application (unless otherwise noted herein) and Plan processing, approval and recording shall not be completed until all required fees are paid. There shall be no refund or credit of fees or a portion of any fee should the Applicant withdraw the Plan during the review process or fail to receive Plan approval.

(a) Fee Schedule

- (i) Minor Subdivision Plans shall be subject to a review fee of \$50
- (ii) Major Subdivision Plans and Land Development Plans shall be subject to a review fee of \$150.00.

(b) Professional Service Fees

In addition to the required review fee, it is anticipated that additional expenses will be incurred by the County in processing the Preliminary and/or Final Plans which are submitted or which may be required to be submitted under this Ordinance, for engineering, legal or other professional consultant expenses. If the fees are not sufficient to cover these expenses incurred in the review of said Plans, the Department shall notify the person submitting the Plans for review of the additional expense and shall request payment of the same. All payment requested by the Department for engineering, legal or other professional expense shall be the actual cost of the services incurred by the County. These services shall be billed at the normal established rate for engineering or legal services.

(c) Professional Service Fee Disputes

In the event the applicant disputes the amount of any such review fees, the applicant shall, within fourteen days of the applicant's receipt of the bill, notify the municipality that such fees are disputed, in which case the municipality shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees.

(d) Dispute Mediation

In the event that the County and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the applicant and the County shall follow the procedure for dispute resolution set forth in section 510(g) of the Pennsylvania Municipalities Planning Code (53 P.S. 10101), provided that the professionals resolving such dispute shall be of the same profession or discipline as the consultants whose fees are being disputed.

Article IV. Review and Approval Process

Section 4.01 General Procedure

Whenever any subdivision or land development is proposed, and prior to any contract for sale, lease, or any other instrument of land transfer, and prior to the commencement of any construction, the applicant shall secure approval of the proposed development in accordance with the following procedures:

(a) Procedure for Approval, Minor Development

A minor subdivision shall not require the extension or installation of any new street and shall not require the installation or extension of any community or public water system, sewer system, or any other community or public improvements as required under Article IV of this Ordinance. A minor development shall not exceed five lots. All lots, tracts, and parcel subdivided from the original parent tract as it existed on May 15, 1972 shall be counted for the determination of a minor or major development. Review and approval must be submitted as follows:

- (i) Sketch Plan (informal/optional review)
- (ii) Final Plan Review and Approval

(b) Procedure for Approval, Major Development

A major development shall be defined as any development which does not satisfy the criteria for a minor development. Land developments which do not meet the definition of minor subdivision shall be reviewed and approved as a major development. Review and approval of a major development plan must follow below procedure:

- (i) Sketch Plan (informal/optional review)
- (ii) Preliminary Plan Review and Approval
- (iii) Final Plan Review and Approval

(c) Concurrent Approval

Preliminary plan approval and final plan approval may at the discretion of the Department be granted concurrently provided that public or private improvements are not warranted as provided for in this Ordinance.

Section 4.02 Plan Submission

All preliminary and final plans submitted pursuant to this Ordinance shall conform to the requirements of this Ordinance and shall, in addition, conform to such administrative regulations of the County as may have been adopted at any time or from time to time and as shall be in effect and applicable to the submission. A plan submission shall be deemed complete upon receipt of an application, a completed development plan, submission of all required supplemental information, and payment of the appropriate fee in accordance with Section 209 Fees of this Ordinance.

Section 4.03 Sketch Plan Review

Prior to filing an application with the Department for either preliminary or final plan approval, the applicant may prepare a sketch plan of the proposal and review it with a Department representative. Sketch plan review is a voluntary informal action intended to provide assistance for preparation of the preliminary or final plan submission and shall, not afford the applicant any right as provided for in Section 208 Right to Appeals of this Ordinance.

Section 4.04 Preliminary Plan Review and Approval

- (a) The applicant shall prepare and submit to the Department five (5) copies of the preliminary plan, including all other information necessary to secure compliance with the provisions of the Ordinance. The preliminary plan shall include the total land to be ultimately developed for review by the Department.
- (b) Approval of a preliminary plan shall not constitute approval of a final plan, but rather approval of the layout submitted on the preliminary plan as a guide for the preparation of the final plan.

Section 4.05 Final Plan Review and Approval

- (a) The applicant shall prepare the original final plan and submit the plan to the Department on Mylar, linen or other similar reproducible material, satisfactory to the Department and Recorder of Deeds for the County of Westmoreland, together with at least five (5) copies of the plan including all other information necessary to secure compliance with the provisions of this Ordinance. All records, dates, signatures, entries, statements, etc., shall be placed on the plan in an approved permanent manner.
- (b) Upon approval of a final plan a Department representative shall sign the final plan and shall affix the official seal in the name of the Department.
- (c) Submission of a final plan for approval by the Department when preceded by preliminary plan approval shall occur not more than five (5) years following the date of approval of the preliminary plan. Failure to submit the final plan within this time frame shall make the approval of the preliminary plan null and void unless an extension of time has been requested in writing by the developer and a written approval granted by the Department.
- (d) The final plan shall conform to the approved preliminary plan except for the modifications or changes required by the Department. Where, in the opinion of the Department, there have been significant modifications or changes to the approved preliminary plan other than those required by the Department, the plan shall be submitted again as a preliminary plan.
- (e) The final plan may include all or part of the area of the approved preliminary plan. All lots of the final plan, however, shall be contiguous and lots of the second final plan shall be contiguous to the first final plan, etc.

Section 4.06 Submission to Other Agencies

The Department may forward one copy of the materials submitted as part of the preliminary and/or final plan to each of the following agencies for their review:

- (a) Westmoreland Conservation District
- (b) Westmoreland County Engineer
- (c) Westmoreland County Department of Public Safety
- (d) The governing body and Planning Commission of the local municipality in which the Subdivision or Land Development is located
- (e) Pennsylvania Department of Transportation
- (f) Pennsylvania Department of Environmental Protection
- (g) Other official agencies that may be able to offer comments regarding the plan or would have ordinances or regulations affecting the development. When comments are received from a reviewing agency, the Department may consider these comments in deciding on the application.

Section 4.07 Plan Requirements

(a) All plans, whether Preliminary or Final shall provide the following general information:

- (i) Development name or identifying title
- (ii) Municipality in which the development is located
- (iii) North point, scale and date
- (iv) Name of the Developer of the property or his authorized agent and their address
- (v) Name of the person who prepare the plan
- (vi) Deed Book Volume and Page Number, Tax Map reference, including previous Plan Book Volume and Page Number of the tract being developed
- (vii) Appropriate certification of a Professional Engineer, Professional Land Surveyor or Landscape Architect registered in the State of Pennsylvania who has prepared the plan

(b) Scale and Size

- (i) The Preliminary Plan shall be at a scale of either 50 feet to the inch or 100 feet to the inch and shall have a maximum sheet size of 36” by 48 and a minimum sheet size of 18” by 24.”
- (ii) The Final Plan shall be at a scale of either 50 feet to the inch or 100 feet to the inch and shall have a maximum sheet size of 18” by 24.”

(c) Location Map

The location map shall be a small map (approximate scale of 1"=2000'); it shall be made a part of the preliminary and final plan and be of sufficient clarity to enable on-site inspection of the proposed development. It shall contain the following information:

- (i) Approximate location and boundaries
- (ii) Major existing roads adjoining or related to the Development
- (iii) Title ("Location Map"), graphic scale and north point

(d) Existing Features

All plans, whether Preliminary or Final, shall provide the following information:

- (i) Exterior tract boundary, with bearings and distances shown, as prepared by a Professional Land Surveyor registered in the State of Pennsylvania. When the plan, whether preliminary or final, covers only part of the tract, a sketch shall be submitted of the prospective layout of improvements for the remainder. Acreage remaining shall also be included on the plan.
- (ii) Existing adjacent land, illustrating the property owner's name, property lines and existing structures, and land use; if the land is subdivided, only the contiguous tier of lots, the plan(s) name and Plan Book Volume and page number need be shown.
- (iii) Topographic contour lines (preliminary plans only) with vertical intervals of two (2) feet if the general slope of the site is less than ten (10) percent, and at vertical intervals of five (5) feet if the general slope is greater than ten (10) percent. The Department may approve a departure from the above contour interval requirements, if in the opinion of the Department, such departure will not hinder a proper review of the preliminary plan.
- (iv) All existing watercourses, flood ways, regulatory flood hazard areas and other significant natural features.
- (v) All existing buildings, sewers, water mains, manholes inlets, culverts, natural gas, petroleum product lines, fire hydrants, and other significant man-made features which affect the subdivision or land development plan.
- (vi) All existing streets and roads on and abutting the tract including, name, identification number, right-of-way width and pavement width.
- (vii) All existing property lines and easements, including the width and purpose of existing easements and rights of way.
- (viii) Current zoning district classification where applicable.

(e) Proposed Improvements

The applicant shall be required to submit the layout, cross sections, profiles and design of the proposed public improvements in accordance with the requirements of Section 307 of this Ordinance. This provision includes, but is not limited to:

- (i) Location, width and purpose of proposed easements.
- (ii) Location and width of all proposed streets, alleys, rights-of-way and pavement widths.
- (iii) Typical and scaled cross-sections of all proposed improvements, including, but not limited to streets, curbs, gutters, sidewalks, utilities and all public and community services.
- (iv) Layout of lots, showing dimensions and identifying numbers of each lot. The final plan shall provide surveyed lot dimensions including distance, bearings, and turning points. The remaining parcel or tract shall be enumerated as the highest numbered lot.
- (v) Proposed minimum building set-back line.
- (vi) Proposed water, sewage, storm water drainage system, and erosion and sedimentation control improvements where it is required including profiles and construction details.
- (vii) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes as may be required in Article IV of this Ordinance.
- (viii) Where land development is proposed, the location of buildings shall be indicated showing area of each, minimum distances between setbacks, side yard/back yard proposals, proposed parking areas and number and size of structures shall also be indicated as well as internal street design, and other applicable design criteria according to Article IV of this Ordinance.
- (ix) A schedule showing the approximate dates when the applicant proposes to make application for final plan approval of various segments of the development where phased development is proposed.
- (x) All easements and rights-of-way shall include a description of the nature and extent of such easements and rights-of-way.

Section 4.08 Supplemental Information

The Department or the Municipality in which a major development is located may request the submission of supplemental information in order to protect the public's health safety and welfare. All applications for approval of a major development, whether preliminary or final, shall not be deemed administratively complete until all supplemental information has been received and accepted by the Department and the Municipality.

(a) Traffic Impact Study Requirements

- (i) The traffic impact study area shall be based on the characteristics of the surrounding area. The intersections to be included in the study shall be adjacent to the Site or have direct impact upon the access to the Site. The intersections shall be mutually agreed upon by the Municipality and the transportation Engineer preparing the study.
- (ii) Traffic impact studies shall be prepared by or under the supervision of qualified and experienced transportation Engineers with specific training in traffic and transportation engineering and at least two years of experience related to preparing traffic studies for existing or proposed developments.
- (iii) The traffic forecasts shall be prepared for the anticipated opening year of the development, assuming full build out and occupancy. This year shall be referred to as the Horizon Year.
- (iv) Estimates of Non-Site Traffic shall be made, and will consist of through motorized and non-motorized traffic and motorized and non-motorized traffic generated by all other developments within the study area for which Preliminary or Final Plans have been approved. Non-Site Traffic may be estimated using any one of the following three methods: "Build-up" technique, area transportation Plan data or modeled volumes, and trends or growth rates.
- (v) The traffic impact study shall include a table showing the land use categories and quantities, with the corresponding Trip generation rates or equations (with justification for selection of one or the other), and resulting number of Trips. The Trip generation rates used must be either from the latest edition of Trip Generation by ITE, or from a local study of corresponding land uses and quantities. All sources must be referenced in the study.
- (vi) Any significant difference between the sums of single-use rates and proposed mixed-use estimates must be justified and explained in the study.
- (vii) The reasoning and data used in developing a trip generation rate for special/unusual generators must be justified and explained in the report.
- (viii) Prior to Trip distribution of Site-generated Trips, an Influence Area must be defined which contains eighty percent (80%) or more of the Trip ends that will be attracted to the development. A market study can be used to establish the limits of an Influence Area, if available. If no market study is available, an Influence Area should be estimated based on a reasonable documented estimate. The Influence Area can also be based on a reasonable maximum convenient travel time to the Site, or delineating area boundaries based on locations of competing developments. Other methods, such as using Trip data from an existing development with similar characteristics or using an existing origin-destination survey of Trips within the area, can be used in place of the Influence Area to delineate the boundaries of the impact.
- (ix) Trip distribution can be estimated using any one of the following three methods:

- 1) Analogy
- 2) Trip distribution model
- 3) Surrogate data

Whichever method is used, Trip distribution must be estimated and analyzed for the Horizon Year. A mixed-use development may require more than one distribution and coinciding assignment for each phase (for example, residential and retail Phases on the same Site). Consideration must also be given to whether inbound and outbound Trips will have similar distributions.

- (x) Assignments must be made considering logical routings, available roadway capacities, left turns at critical intersections, and projected (and perceived) minimum travel times. In addition, multiple paths should often be assigned between origins and destinations to achieve realistic estimates rather than assigning all of the Trips to the route with the shortest travel time. The assignments must be carried through the external Site access points and in large projects (those producing five hundred (500) or more additional peak direction Trips to or from the Site during the development's Peak Hour) through the Model Internal roadways. When the Site has more than one (1) Access Driveway, logical routing and possible multiple paths should be used to obtain realistic Driveway volumes. The assignment should reflect conditions at the time of the analysis. Assignments can be accomplished either manually or with applicable computer models. If a thorough analysis is required to account for pass-by Trips, the following procedure should be used:

- 1) Determine the percentage of pass-by Trips in the total Trips generated.
- 2) Estimate a Trip distribution for the pass-by Trips.
- 3) Perform two separate Trip assignments, based on the new and pass-by Trip distributions.
- 4) Combine the pass-by and new Trip assignment.

Upon completion of the initial Site traffic assignment, the results should be reviewed to see if the volumes appear logical given characteristics of the road system and Trip distribution. Adjustments should be made if the initial results do not appear to be logical or reasonable.

- (xi) Motorized and non-motorized traffic estimates for any Site with current traffic activity must reflect not only new traffic associated with the Site's Redevelopment, but also the Trips subtracted from the traffic stream because of the removal of a land use. The traffic impact study should clearly depict the total traffic estimate and its components.
- (xii) Capacity analysis must be performed at each of the major Street and project Site access intersection locations (signalized and unsignalized) within the study area. In addition, analyses must be completed for roadway segments deemed sensitive to Site traffic within the study area as determined by the Municipality. These may include such segments as weaving sections, ramps, internal Site roadways, parking facility access points, and reservoirs for vehicles queuing on- and Off-Site. Other locations may be deemed appropriate depending on the situation. The recommended Level-of-Service analysis procedures detailed in the most recent edition of the Highway Capacity Manual must be followed. The operational analyses in the Highway Capacity Manual should be used for analyzing existing conditions, traffic impacts, access requirements, or other future conditions for which traffic, geometric, and control parameters can be established.
- (xiii) The recommendations of the traffic impact study shall provide safe and efficient movement of traffic to and from and within and past the proposed development, while minimizing the impact to non-Site Trips. The current levels-of-service must be maintained if they are Levels C or D, not allowed to deteriorate to worse than Level C if they are currently Levels A or B, and improved to Level D if they are Levels E or F.

- (xiv) A traffic impact study report shall be prepared to do document the purpose, procedures, findings, conclusions and recommendations of the study.
- 1) The documentation for a traffic impact study shall include, at a minimum:
 - a) Study purpose and objectives
 - b) Description of the site and study area
 - c) Existing roadway conditions in the area of the development
 - d) Recorded or approved development(s) within the traffic impact study area
 - e) Trip generation, Trip distribution and modal split
 - f) Projected future motorized and non-motorized traffic volumes
 - g) An assessment of the change in roadway operating conditions resulting from the development traffic.
 - h) Recommendations for site access and transportation improvements needed to maintain and/or improve motorized and non-motorized traffic flow to, from, within and past the site at an acceptable and safe Level-of-Service
 - i) Transit location, availability of bike routes, connection to a park and/or trail system
 - 2) The analysis shall be presented in a straight forward and logical sequence. It shall lead the reader step-by-step through the various stages of the process and resulting conclusions and recommendations.
 - 3) The recommendations shall specify the time period within which the Improvements should be made (particularly if the Improvements are associated with various Phases of the development construction), and any monitoring of operating conditions and Improvements that may be required. Recommendations shall also identify who will be responsible for making the Improvements.
 - 4) Data shall be presented in tables, graphs, maps, and diagrams wherever possible for clarity and ease of review.
 - 5) To facilitate examination by the Municipality, an executive summary of one or two pages shall be provided, concisely summarizing the purpose, conclusions, and recommendations.
 - 6) The study documentation outlined above provides a framework for Site traffic access/impact study reports. Some studies will be easily documented using this outline. However, the specific issues to be addressed, local study requirements, and the study results may warrant additional sections.

Section 4.09 Private Reservation of Land

Notwithstanding anything contained in the above Sections, the Applicant may, with the consent and approval of the Governing body, may elect to reserve private lands

- (a) Any project that proposes the private reservation of land shall be accompanied by an agreement, which is acceptable to the Municipal Attorney, and which shall be recorded prior to or concurrent with the Preliminary Plan approval. Such agreement shall stipulate:
 - (i) That maintenance of the designated open space is the responsibility of the Applicant, a homeowners' association, a condominium unit owners' association, or other recognized entity.
 - (ii) The availability of such private open space to non-residents of the development.
 - (iii) The method by which the private reservation may be offered for public Dedication.
 - (iv) That the land cannot be sold or disposed of by the association except to another organization formed to own and maintain said open space and without first offering to dedicate the land and Improvements to the Municipality.
- (b) If such lands are to become common elements of a homeowners' or Condominium unit owners' association of any type, then such association's organizational by-laws must conform to the requirements of applicable state law.

Section 4.10 Condominium and Home Owners Associations

A Community Association Document, also known as a Homeowner Association Document or a Condominium Association Document, shall be provided for all Subdivision and Land Development applications that propose lands or facilities to be used or owned in common by all the residents of that Subdivision and Land Development and not deeded to the Municipality. The elements of the Community Association Document shall include but shall not necessarily be limited to the following:

- (a) A description of all lands and facilities to be owned by the community association. This description shall include a map of the proposal highlighting the precise location of those lands and facilities.
- (b) Statements setting forth the powers, duties, and responsibilities of the community association, including the services to be provided.

- (c) A Declaration of Covenants, Conditions, and Restrictions, giving perpetual easement to the lands and facilities owned by the community association. The Declaration shall be a legal document that also provides for automatic Association membership for all owners in the Subdivision or Land Development and shall describe the mechanism by which owners participate in the Association, including voting, elections, and meetings. Furthermore, it shall give power to the Association to own and maintain the common property and to make and enforce rules.
- (d) Statements prescribing the process by which community association decisions are reached and setting forth the authority to act.
- (e) Statements requiring each owner within the Subdivision or Land Development to become a member of the community association. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
- (f) Requirements for all owners to provide a pro rata share of the cost of the operations of the community association.
- (g) A process of collection and enforcement to obtain funds from owners who fail to comply.
- (h) A process for transition of control of the community association from the Developer to the unit owners.
- (i) Statements describing how the lands and facilities of the community association will be insured, including limit of liability.

Section 4.11 Approval of Plans

- (a) All applications for approval of plans, whether preliminary or final, shall be acted upon by the Department and the decision conveyed to the applicant not later than ninety days following the date the application is deemed complete by the Department.
- (b) The decision of the Department shall be in writing and shall be communicated to the applicant personally or mailed to the applicant at the last known address not later than fifteen days following the decision.

- (c) When an application is not approved in terms as filed, the decision of the Department shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of the Ordinance relied upon.
- (d) Failure of the Department to render a decision and communicate it to the applicant within the time period and manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, or change in manner of presentation of communication shall also be deemed approval of the application.
- (e) Changes in this Ordinance or other governing ordinances shall affect plans as follows:
 - (i) From the time an application for approval of a plan, 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 of any zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed, in addition, when a preliminary application has been duly approved, the applicant may 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.
 - (ii) When an application for approval of a plan, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment of any zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval.

- (iii) Where final approval is preceded by preliminary approval, the aforesaid five 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.
- (iv) Where the landowner, developer, or applicant has substantially completed the required improvements as depicted upon the final plan within the aforesaid five year limit, or any extension thereof as may be granted by the Department, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plan shall modify or revoke any aspect of the approved final plan pertaining to density, lot size, building, street or utility location.
- (v) In the case of a preliminary plan calling for the installation of improvement beyond the five year period, a schedule shall be filed by the landowner, developer or applicant with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plan approval, until final plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval by the Department in its discretion.
- (vi) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Department at its discretion, provided the landowner, developer or applicant has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with the aforesaid schedule of submission of final plans for the various sections. The aforesaid protections afforded by substantially completing the improvements depicted upon the preliminary plan within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five year period. The aforesaid protections shall then apply for an additional term or terms of three years from the date of preliminary or final plan approval for each section.
- (vii) Failure of landowner, developer or applicant to adhere to the aforesaid schedule of submission of final plans for the various sections shall subject any section to any and all changes in zoning, subdivision and other governing ordinance enacted subsequent to the date of the initial preliminary plan submission.
- (viii) No plan which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless a highway occupancy permit has been issued pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law."

Section 4.12 Recording of Plans

- (a) Upon the approval of a final plan, the applicant shall within ninety (90) days of such final approval record such plan in the office of the Recorder of Deeds of the County of Westmoreland. The recording of the plan shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included with the subject plan.
- (b) The recording of the final plan, following approval by the Department, has the effect of an irrevocable offer to dedicate all streets and public ways and areas, unless otherwise noted on the final plan, to public use. The offer, however, does not impose any obligation on the County or any municipality, concerning maintenance or improvement until the proper authorities of the applicable municipality have made actual acceptance, either by ordinance or by resolution.
- (c) No plan shall be offered for recording unless such plan has been granted final plan approval by the governing body of the local municipality and the Department.

Article V. Design Criteria

Section 5.01 General

- (a) The provisions of this Article as herein established shall be applied by the Department in evaluating a proposed subdivision or land development.
- (b) No land shall be developed for any purpose unless hazards to life, health or property have been eliminated or unless the plans for the subdivision or land development shall provide adequate safeguards against such hazards.
- (c) Subdivision and land development plans shall not conflict, hinder or cause to desist or alter the plans of any official agency or department of the Commonwealth of Pennsylvania, or the plans of any official agency or department of the Federal Government.

Section 5.02 Lot Criteria

- (a) Lot dimensions and area requirements for single family detached dwelling units shall not be less than specified by the provisions of the zoning ordinance, if such ordinance exists for the municipality in which the Subdivision or Land Development is located. Where lot dimensions are not established by a municipal zoning ordinance, lot dimensions and area requirements shall be regulated by the following minimum standards:
 - (i) Where sewage disposal is provided for by approved on-lot system(s) of any type, or where water supply is provided by an on-lot source of any type, lots shall have a minimum area of one acre and minimum width, as measured at the building line of not less than one hundred feet.

- (ii) Where sewage disposal is provided for by an approved public sewerage system and a community or public water supply is also provided, lots shall have a minimum area of 4,000 square feet and a minimum width, as measured at the building line of not less than thirty five feet.
- (b) The lot area standard for Land Developments which do not comply with Section 4.02 (a) of this Ordinance shall provide and maintain the necessary land area to achieve a maximum dwelling unit density of 12 per acre. Where the developer proposes reserved open space, buffer areas or improved passive recreational facilities the density ratio will be waived. Rights-of-way, utility easements or other disturbed lands shall not be considered when calculating the density ratio.
- (c) **Flag Lots**
Flag Lots present a viable design alternative under the following standards:
 - (i) Flag Lots shall not restrict the development potential and pattern of development of the Tract and adjacent lands.
 - (ii) Flag Lots shall not provide access to a public road for any adjoining lot, tract or parcel.
 - (iii) Flag Lots shall not be proposed in order to avoid construction of Streets. Flag Lots proposed to create Lots for home Sites where there is no potential for the construction of a public or Private Street must demonstrate that there is no potential to construct a Street due to: (a) severe topographic or other environmental constraints that limit the design of a Street; or (b) other factors inherent in the Site which make the construction of a public or Private Street impractical.
 - (iv) The width of the Flagpole, as measured at the twenty five feet building line shall be less than fifty feet and greater than twenty five feet.
- (d) Modification of lot criteria may only be accepted by submission of a resolution of the local governing body approving such a modification in the municipality in which the Development is proposed.
- (e) Side lot lines in a subdivision shall be substantially radial or at right angles to the edge of the right-of-way and shall not deviate more than +/- 25 degrees. The depth of a lot in a subdivision should not exceed three times the width as measured at the building setback line.

(f) Setback Distances

- (i) In all subdivisions and land developments, a clear sight setback line shall be established; 25 feet from a local, private or cul-de-sac street or 40 feet from arterial and collector streets.
- (ii) The Department reserves the right to modify setback requirements based on local conditions. Considerations to modify said standard may include traffic volume, maximum vehicle operating speeds, sight distance needs, prevalent setbacks for neighboring structures and interference with pending highway improvement projects.
- (iii) In cases where the Developer and Department cannot find an agreement on setback distances, the alternative minimum standard set forth in Section 4.02 (g)(i) shall be enforced.

Section 5.03 Additional Dedications

The provisions of this section are minimum standards and shall not be construed as prohibiting the developer from dedicating or reserving additional lands for purposes consistent with open space preservation.

Section 5.04 Sewage Treatment and Disposal

- (a) The proposed methods of sanitary sewage disposal shall be in accordance with the approved Act 537 Sewage Facilities Plan, or a revision, exception or supplement thereof, for the municipality in which the development is located unless the lot qualifies for side-lot addition, non-building waiver or ten-acre exemption and approved by the local sewage enforcement officer or municipality.
- (b) All subdivisions and land development which cannot be connected to a public or community sanitary sewage disposal system in operation at the time of land transfer or construction of a principal structure shall either be provided with an on-lot sanitary sewage disposal system(s) meeting the design standards of Title 25, Chapter 73 Rules and regulations of the Pennsylvania Department of Environmental Resources and any additional standards of the municipality or the applicant shall guarantee, prior to final plan approval, that such facilities can be installed by the purchaser of such a lot, tract or parcel.
- (c) In all other cases, the applicant shall provide a complete community or public sanitary sewage disposal system. The design and installation of any community or public system shall be subject to the approval of the local authority, local governing body, and subject to the approval of the Pennsylvania Department of Environmental Protection. A copy of the approval for the proposed method of sanitary sewage disposal shall be submitted with the final plan to the Department.

- (d) Soil profiles and percolation tests shall be performed for all subdivisions and land developments wherein all structures, at the time of construction, will not be connected to a public or community sanitary sewage system in operation.
- (e) Soil profiles and percolation tests shall be performed in accordance with the procedure required by the Pennsylvania Department of Environmental Resources and the municipality's Sewage Enforcement Officer. Test results shall be conducted and verified by the municipality's Sewage Enforcement Officer at a minimum rate of one per lot.
- (f) A report on the feasibility of individual on-lot sewage disposal to include the results of representative soil profiles and percolation tests, as approved by the Pennsylvania Department of Environmental Resources shall be required prior to preliminary plan approval.
- (g) Satisfactory test results as reported by the Pennsylvania Department of Environmental Resources or the official representative thereof, shall be provided for every proposed or existing lot building site, as evidence that on-lot sanitary sewage disposal is permitted according to the Sewage Facilities Act (Act 537, as amended) prior to final plan approval.

Section 5.05 Water Supply

- (a) Where the applicant proposes that individual on-lot water supply system shall be utilized within the subdivision or land development, he shall be responsible either to install such facilities or to guarantee (by deed restriction or agreement of sale), as a condition of sale, of each lot or building space within the subdivision or land development, that the facilities can be installed by the purchaser of such lot or parcel at the rate of one per lot or dwelling. Individual water supply systems shall be designed and installed in accordance with all applicable standards of the Pennsylvania Department of Environmental Protection.
- (b) Wherever feasible, the subdivision or land development shall be provided with a central (public or community) water supply system. The design and installation of such a system shall be subject to the approval of the local authority and the Pennsylvania Department of Environmental Resources. Standards and materials for the construction of any water supply system shall meet or exceed those requirements described in the Public Water Supply Manual of the Pennsylvania Department of Environmental Protection and shall be subject to the approval of the local authority.

(c) Water System Design Guidelines

- (i) The following types of water supply systems are listed in order of desirability:
 - 1) Publicly owned community water supply systems
 - 2) Privately owned community water supply systems
 - 3) Individual well when a community water supply system is not accessible
- (ii) Applicants shall submit to the Department documentation in the form of a copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission and/or private water utility authority that the project is located in an area served by a public utility and a statement that the utility has the capacity to serve the project at this time; or a cooperative agreement or an agreement to serve the project from a bona fide cooperative association of Lot owners or from a municipal corporation, authority, or utility.
- (iii) Fire hydrants shall be provided whenever the water supply system contains sufficient capability or is planned to have such capability within two years from the date of Final Plan approval.
 - 1) The location and kind of fire hydrant shall meet the specifications of the local municipal regulation.
 - 2) Fire hydrant location(s) shall be submitted prior to Final Plan approval.
- (iv) When a new private water supply system is proposed for development, a copy of the approval of such system by the appropriate agency or utility company that provides the service shall be submitted with the Final Plan. Suitable agreements shall be established for the ownership and maintenance of such a distribution system.
- (v) The Applicant shall provide the type of community water supply system consistent with current plans, including but not limited to the municipal Comprehensive Plan as well as existing physical geographical and geological conditions.

- (vi) Applicants shall submit to the governing body documentation in the form of a copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission and/or private water utility authority that the project is located in an area served by a public utility and a statement that the utility has the capacity to serve the project at this time; or a cooperative agreement or an agreement to serve the project from a bona fide cooperative association of Lot owners or from a municipal corporation, authority, or utility.
- (vii) When a new private water supply system is proposed for development, a copy of the approval of such system by the appropriate agency or utility company that provides the service shall be submitted with the Final Plan. Suitable agreements shall be established for the ownership and maintenance of such a distribution system.

Section 5.06 Street Improvements

- (a) The proposed street system shall extend existing or recorded streets at the same width, but in no case at less than the required minimum width at herein established
- (b) Where, in the opinion of the Department, it is necessary to provide for future street access to adjoining property, streets shall be extended by dedication to the boundary of such property in accordance with official plans.
- (c) The Developer shall provide for the extension and continuation of collector and local streets into adjoining properties in accordance with official plans
- (d) Where a subdivision abuts existing streets of inadequate width or alignment, the Department may require the dedication of land sufficient to widen the street or correct the street alignment.
- (e) Dead end streets, whether temporary or permanent, shall be permitted only when designed as a cul-de-sac. Any street with a temporary dead end which has been authorized through approved staged development shall be provided with a suitable all weather circular turnaround according to Section 5.07 (Cul-de-Sacs) of the Ordinance.

Section 5.06 (f) Street Alignment Specifications

(These specifications are minimum standards except where noted)

Street Type	Minimum Right-of-Way Width	Minimum Cartway Width	Minimum No-Curb Shoulder Width*	Maximum Grade	Minimum Grade	Minimum Curve Radius	Minimum Clear Sight Distance	Minimum Vertical Curves Crest Sag
As deemed appropriate by the Pennsylvania Department of Transportation								
Arterial Collector with Curbs or Shoulders	60'	24'	6'	10%	1%	325'	350'	25' 33'
Local with Curbs or Shoulders	50'	24'	4'	14%	1%	150'	150'	15' 23'
Private Streets	As per local street standards above or as provided for elsewhere in this ordinance							
Service Alleys								
Internal Access								

*Shoulder width includes right and left shoulders. This requirement may be relieved provided curbs of acceptable design and construction are provided.

Section 5.06 (g) Intersection Design Specifications						
	Intersection Type					
	Arterial with Arterial	Arterial with Collector	Arterial with Local or Private	Collector with Collector	Collector with Local or Private	Local/Private with Local/Private
Maximum number of intersecting streets	2	2	2	2	2	2
Minimum distance between centerline of street intersecting on the same side	800' / 800'	800' / 300'	500' / 500'	200' / 125'	125' / 125'	
Angle at intersection of street centerlines	90 degrees	90 degrees	90 degrees	90 degrees	75 to 105 degrees	75 to 105 degrees
Length/grade of intersection encroaches measured in the centerline of the street being intersected	50'/4%	50'/4%	50'/4%	50'/4%	50'/4%	50'/4%
Minimum paved curb radius	45'	45'	45'	45'	35'	35'
Minimum corner sight distance	500'	500'	350'	350'	350'	250'

No structure or obstruction exceeding thirty-six inches in height shall be permitted in clear sight triangles except for utility poles, light fixtures, street signs and fire hydrants.

Source: Guidelines for Design of Local Streets Pennsylvania Department of Transportation (1983)

Section 5.07 Cul-de-Sacs

Cul-de-sac streets shall not exceed 1,000 feet in length and in residential development shall not serve more than 50 existing or proposed dwelling units. The paved turnaround shall have a minimum diameter of 80 feet and a right-of-way of 100 feet in diameter. Where the intersection of more than one cul-de-sac is proposed, the maximum length of any section from the point of origin and through street shall not exceed 1,000 feet in length or serve more than 50 units.

Section 5.08 Private Streets

- (a) Whenever a developer proposes to establish a street which is not offered for dedication, he must declare and place notations on the Preliminary and Final Plans establishing the following conditions:
 - (i) All private streets shall be unrestricted in nature and extent of use.
 - (ii) Title to all private streets shall remain with the owner(s) or a homeowner's association as established by the Uniform Condominium Act.
 - (iii) The method of assessing repair costs and methods for carrying out repair duties.
 - (iv) The private street declaration shall bind and include all future owners or lots, tracts or parcels of land contained in the Subdivision or Land Development.
- (b) In lieu of local street construction standards, proposed private streets shall be constructed with, at a minimum, a six inch base of acceptable materials. All materials shall be subject to approval by the Department prior to Final Plan approval.

Section 5.09 Street Construction Standards

All proposed public streets on the approved preliminary or final plan shall be designed as prescribed in the Standard Specifications for street construction for the municipality in which the development is located. The local governing body shall have sole jurisdiction over all matters concerning street construction including design, inspection, terms of dedication, and financial security necessary for assuring completion of proposed public streets.

Section 5.10 Alleys

- (a) Where alleys are proposed in residential development, they shall have a minimum unrestricted right-of-way width of 25 feet and paved for a width of at least 12 feet.
- (b) Alleys shall not provide the primary means of access to any lot in a subdivision or any dwelling unit in a land development.

Section 5.11 Parking

All residential Subdivisions and Land Developments shall provide at least two off-street parking stalls for each lot or dwelling unit.

Section 5.12 Notice of Reservation from Public Dedication

The landowner shall place a notation on the Preliminary/Final Plan when there is no offer of Dedication to the public of certain designated areas, in which event the title to such areas shall

remain with the owner, and the Commonwealth, County and local authorities shall assume no right to accept ownership or right-of-way.

Section 5.13 Street Addressing

The developer shall consult with the municipality and the Westmoreland County Department of Public Safety before naming new streets in a development.

Section 5.14 Internal Access Drives

- (a) Internal access streets within a land development shall generally be required to conform to the requirements of Sections 5.06, 5.07 and 5.09 of this Ordinance. The developer may alter the required standard provided that he demonstrates the alternative standard is consistent with the purposes of this Ordinance.
- (b) Whenever a developer proposes internal access streets, he must declare and place notations on the preliminary /final plans establishing the following conditions:
 - (i) Use of the internal access streets are restricted by the developer and the developer shall provide a description of the restrictions.
 - (ii) Title to all internal access streets shall remain with the owner or a homeowner's association as established by the Uniform Condominium Act.
 - (iii) The method of assessing repair costs and methods for carrying out repair duties.
 - (iv) The internal access street declaration shall bind and include all future owners or occupants in the subdivision or land development.

Section 5.15 Environmental Conservation

(a) Soil Erosion and Sedimentation Control

Prior to preliminary or final plan approval of any subdivision or land development, the applicant shall prepare a soil erosion and sedimentation control plan to maximize soil stabilization and minimize storm water run-off. The plan will be submitted by the applicant to the Westmoreland County Conservation District for approval under the provisions of Title 25. Rules and Regulations of the Pennsylvania Department of Environmental Resources; Chapter 102 Erosion Control. The District will review the erosion and sedimentation control plan and transmit the decision to the applicant and Department. The District has the authority to waive the requirements of this section where deemed appropriate.

(b) Flood Hazard Control

Any subdivision or land development which is located within or immediately adjacent to a regulatory flood hazard area, shall first receive appropriate authorization in accordance with the official flood plain ordinance of the municipality in which the development is located. The Department may not approve a subdivision or land development plan, whether preliminary or final without such authorization from the municipality.

Section 5.16 Public Safety

All major development plans may be furnished to the Westmoreland County Department of Public Safety. Specific items to be addressed include:

- (a) Suitability of existing and proposed roads for the safe egress, regress and ingress of public safety vehicles, personnel, and apparatus.
- (b) Communications shall be established with the municipality and appropriate public safety officials for the location of the development. Written evidence of such communications (meeting minutes, letter from safety officials) shall be submitted with the preliminary and final plans.
- (c) Copies of environmental and or safety response plans, as required by other regulatory agencies, shall be furnished prior to final plan approval.
- (d) The developer shall communicate the need for necessary safety apparatus to the Westmoreland County Department of Public Safety if such apparatus is not currently available for incident response.
- (e) SARA Title 3 reporting requirements shall be up to date prior to final plan approval.
- (f) Additional recommendations may be applied by the Westmoreland County Department Public Safety when such recommendations are warranted to assure public health, safety and welfare.

Section 5.17 Easements and Rights-of-Way

- (a) Where water and/or sewer facilities are intended for dedication, the requirements for easements shall be determined by the Department. Easements shall be required as necessary for all utilities and improvements.
- (b) Additional unrestricted rights-of-way or additional widths on existing rights-of-way may be required by the Department to provide for future development and access into adjoining properties and to complete existing rights-of-way on adjoining properties in accordance with official plans.

Section 5.18 Monuments

- (a) Monuments shall be accurately placed at the intersection of all lines forming angles and at changes in direction of lines in the boundary (perimeter) of the property being subdivided or improved. The applicant, or his representative, shall be responsible for notifying the Department for inspection of monuments.
- (b) The tops of monuments shall be set level with the finished grade of surrounding ground, except:
 - (i) Monuments which are placed within the lines of existing or proposed sidewalks shall be located (preferably beneath the sidewalks) so that their tops will not be affected by lateral movement on the sidewalks.
 - (ii) Where monuments are located beneath a sidewalk, proper access to them shall be assured.
- (c) All streets shall be monumented on the right-of-way lines of the street at the following locations:
 - (i) At least one monument at each intersection
 - (ii) At changes in direction of street lines, excluding curb arcs at intersections
 - (iii) At each end of each curbed street line, excluding curb arcs at intersections
 - (iv) At such places where topographical or other conditions make it impossible to sight between two permanent markers or monuments, temporary, intermediate monuments shall be placed
 - (v) At such other points along the line of streets as may be determined by the Department so that any street may be readily defined for the future
- (d) All lot corners shall be clearly identified by either a monument or an iron pin. Where iron pins are used, they shall be a minimum of one half inch diameter or solid bar or reinforcing rod, shall be a minimum of 20 inches in length, and shall be elevated upon the finished grade.
- (e) Permanent markers may be substituted for monuments upon approval of materials by the Department.
- (f) All monuments and markers, for inspection purposes, shall be identified by a 40 inch stake located in any direction, not more than four inches from the monument or marker.

Article VI. Conservation Development Option

Section 6.01 General Standards

- (a) Where the municipality does not mandate the provision of open space, and as an alternative to any mandatory open space requirements of this ordinance, open space development may be permitted as a voluntary development option provided the applicant demonstrates, to the satisfaction of the Department, compliance with all design standards and criteria of this Article, as well as all other applicable provisions of this Ordinance. Application of the Conservation Development Option requires mutual consent of the Developer and the Department.
- (b) Where local municipality has adopted a zoning ordinance, this option must be a permitted use in the zoning district in which the Conservation Development option is proposed. The design of new subdivisions created under this Article shall be governed by the standards set forth in Article IV Design Standards of this Ordinance.
- (c) There shall be no overall minimum tract size requirement for open space proposals. However, all lots within open space proposals must conform to the applicable minimum lot size requirements unless the proposal qualifies for a reduction in minimum lot size as per the standards in this Article. The applicant must demonstrate to the satisfaction of the Department that all open space ownership and maintenance responsibilities have been legally established in accordance with this Article and any other pertinent provisions of the Ordinance. Acceptance of an application presenting an open space proposal in no way implies an acceptance of any proposed dedication of the open space or any other elements of the plan without a specific written agreement issued by Westmoreland County or the municipality to which dedication is offered.

Section 6.02 Permitted Open Space Uses

The following uses are permitted within the Open Space areas. Where a local zoning ordinance is in effect, these uses must be permitted within the zoning district where the proposal is situated.

- (a) Conservation of open land in its natural state (e.g., environmental education center, woodland, fallow field, managed meadow, wildlife habitat, game preserve, or similar conservation-oriented area).
- (b) Non-intensive agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings. Related agricultural residences may be located on the same lot as the agricultural uses, but the footprint of the residential building shall not be counted towards the minimum required open space. Agricultural uses specifically excluded are intensive agricultural uses and commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.

- (c) Pasture land for horses used solely for recreational purposes. Equestrian related structures (stables, indoor riding rings, run-in sheds, etc.) shall be permitted.
- (d) Historic lands and Historic buildings and structures of local, regional, or national significance
- (e) Forestry, if conducted in compliance with all local, state, and/or federal regulations. Such activity shall have no adverse impact on the open space. Clear cutting shall not be permitted in the open space.
- (f) Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Department.
- (g) Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than 50 percent of the minimum required open space or five acres, whichever is less.
 - (i) Playing fields, playgrounds, and sporting courts shall not be located within 150 feet of abutting residential properties.
 - (ii) Parking facilities for playing fields, playgrounds, and courts shall also be permitted, and they shall be gravel-surfaced or other pervious material, unlighted, properly drained, provide safe ingress and egress.
- (h) Water supply systems, sewage disposal systems (including individual off-lot systems) and storm water retention where such areas are designed, landscaped, and available as an integral feature of the open space area and capable of being used or enjoyed (e.g. a scenic feature, open meadow, wetland) by the residents of the development or municipality, where applicable. Such features must specifically be approved by the Department.
- (i) Easements for drainage, access, sewer or water lines, or other public uses.
- (j) Underground utility rights-of-way. (Above ground utility and rights-of-way may traverse open space and conservation areas, but shall only count towards the minimum required open space as per Section 5.04.)

Section 6.03 Prohibited Uses

- (a) Any use not permitted by right above or not otherwise permitted shall be deemed a prohibited use.
- (b) With the exception of maintenance, law enforcement, emergency and farming machinery, the use of motorized vehicles except within approved streets, access drives, driveways and parking areas is expressly prohibited.

Section 6.04 Open Space Determination

Determination of the required open space for the Conservation Development Options shall be based upon the adjusted tract acreage of the site and the calculations set forth below:

- (a) Open Space shall be determined as follows. Where more than one type of constrained land overlaps, the constrained land with the higher percentage deduction shall apply.
 - (i) One hundred percent (100%) of wetlands
 - (ii) One hundred percent (100%) of the 100 year floodplain, including the floodway
 - (iii) One hundred percent (100%) of required aquatic or natural resources buffer
 - (iv) Fifty percent (50%) of architectural buffers including landscaped gardens and other artificial plantings
 - (v) Twenty five percent (25%) of natural slopes greater than 25 percent
 - (vi) One hundred percent (100%) of areas identified in the Westmoreland County Natural Heritage Inventory
- (b) Adjusted tract area shall preserve a minimum of 75 percent of the total acreage of the development and shall further exclude all areas set aside for future development. Preserved areas shall not exceed a minimum of 5 acres.

Section 6.05 Open Space Design

- (a) Lot lines and building lines must be established for each lot.
- (b) Under the conservation development option, lot boundaries shall be shown, but in lieu of a minimum lot area, the following lot and yard area regulations shall apply to any principal buildings or any other buildings whether the buildings are located on the same lot or on a separate lot:
 - (i) Minimum separation distances between buildings, except as provided for accessory buildings, shall be 15 feet for single floor units and 25 feet for multi floor units as measured perpendicularly from the rear wall of any residential building at any point to any other building not accessory to such residential building.
 - (ii) Minimum separation distances from any other points between buildings shall be 20 feet.
 - (iii) Principal or accessory buildings shall be located eight feet or greater from any lot line.
 - (iv) Maximum building setback lines shall be established on local, collector and arterial roads as follows:
 - 1) Local roads: zero feet from the edge of the right-of-way
 - 2) Collector roads: 15 feet from the edge of the right-of-way
 - 3) Arterial roads: 25 feet from the edge of the right-of-way
- (c) In addition to the individual building lot setback requirements, new structures shall meet the following guidelines for minimum setbacks for adjacent off site uses:
 - (i) From external road future rights-of-way: 75 feet

- (ii) From other tract boundaries: 50 feet
- (iii) From crop or pasture land: 100 feet
- (iv) From buildings or barnyards housing livestock: 250 feet
- (v) From active recreation areas such as courts or playing fields: 150 feet

Section 6.06 Design Standards

Any Open Space Development shall conform to all standards set forth in the applicable municipal zoning ordinance. Where no municipal zoning ordinance exists, and if not otherwise specified in this section, any Open Space Development shall conform to all pertinent standards of this Ordinance.

(a) Layout

The standards of proposed open space lands set aside for common use in residential subdivisions shall be consistent with the following standards:

- (i) It shall be free of all structures except historic buildings, stone walls, structures related to open space uses, and those structures specifically permitted in Section 5.02. The Department may grant approval of structures and improvements required for storm drainage, sewage treatment and water supply within the open space provided that such facilities would not be detrimental to the open space.
- (ii) Preserved lands shall generally not include land area smaller than three (3) acres, have length-to-width ratio of less than 4:1, or be less than seventy-five (75) feet in width, except for such lands specifically designed as neighborhood greens, architectural buffers, playing fields or trails.
- (iii) Non-adjoining lots shall be provided with safe and convenient pedestrian access to open space land through the use of pathways.
- (iv) Preserved lands shall be interconnected wherever possible to provide a continuous network of open space within and adjoining the subdivision.
- (v) Preserved lands shall provide buffers to adjoining parks, preserves or other protected lands.
- (vi) Preserved lands may provide pathways for use by the residents of the development. Consideration shall be given to providing for public access on such trails if they are linked to other publicly-accessible pathway systems within the municipality.
- (vii) Provisions should be made for access to the open space lands, as required for land management and emergency purposes.
- (viii) It shall be made subject to the requirements of Section 506, Open Space Ownership and Management.

(b) Pathways

- (i) When pathways are intended for public or private use, they shall be protected by a permanent easement on the properties on which they are located. The width of the protected area on which the trail or path is located shall be a minimum of ten (10) feet. The language of the easement shall be subject to approval by the Department and included on the plan. If space is limited for such language, a proper reference shall be required as an alternative.
- (ii) Each path head shall be marked with appropriate signage noting that motorized vehicles are prohibited.
- (iii) For the purposes of this Ordinance, a path is a trail that is purposefully designed to strictly limit its use to a specific use or combined uses such as walking and jogging only, equestrian and pedestrian, bike path, “no pets”, etc. All paths shall conform to the standards of Section 5.07.

(c) Buffers, Landscaping and Screening

All Open Space Developments shall conform to the buffer, landscaping and screening standards of the applicable zoning ordinance or, where no zoning ordinance exists, the standards of this Ordinance.

Section 6.07 Ownership and Management

- (a) Except to provide for permitted uses, preserved lands shall be restricted from further subdivision and land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Department and duly recorded in the office of the Westmoreland County Recorder of Deeds.
- (b) Subject to such permanent restrictions, preserved land in any conservation development may be owned by a homeowners' association, the County, the Municipality, a land trust or other conservation organization recognized by the County and/or Municipality, or may remain in private ownership.
- (c) The County and/or Municipality may, but shall not be required, to accept dedication in the form of fee simple ownership of preserved land, provided:
 - (i) Such land is accessible to the residents of the County/Municipality;
 - (ii) There shall be no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance and recording fees.
- (d) The County/Municipality shall have access to maintain all preserved lands.
- (e) Where the County/Municipality accepts dedication of preserved land that contains improvements, the Department may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15% of the actual cost of installation of said improvements.
- (f) The Open Space land and associated facilities may be held in common ownership by a Homeowners' Association through the use of a Declaration and other documents approved by the Commission. Such documents shall be in conformance with the Uniform Planned Community Act of 1996, as amended. The Association shall be formed and operated under the following provisions:
 - (i) The Developer shall provide a description of the Association including its bylaws and methods for maintaining the Open Space.
 - (ii) The Association shall be organized by the Developer and operating with financial subsidization by the Developer, before the sale of any lots within the development.
 - (iii) Membership in the Association is mandatory for all purchasers of land therein and their successors. The conditions and timing of transferring control of the Association from the Developer to the homeowners shall be identified.

- (iv) The Association shall be responsible for maintenance and insurance on common Open Space land, enforceable by liens placed by the Homeowners Association. Maintenance obligations also may be enforced by the County/Municipality that may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the Open Space to collect unpaid taxes.
- (v) The members of the Association shall share equitably the costs of maintaining and developing such common land. Shares shall be defined within the Association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).
- (vi) In the event of a proposed transfer, within the methods here permitted, of common preserved land by the homeowners' association or of the assumption of maintenance of such land by the Municipality, notice of such action shall be given to all property owners within the development.
- (vii) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common preserved land.
- (viii) The Homeowners' Association may lease Open Space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
 - 1) That the residents of the development shall at all times have access to the Open Space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year when the fields are fallow);
 - 2) That the common preserved land to be leased shall be maintained for the purposes set forth in this Ordinance and local and County Comprehensive Plans; and
 - 3) That the operation of preserved land facilities may be for the benefit of the residents only, or may be open to the residents of the County/Municipality, at the election of the developer and/or homeowners' association, as the case may be.
- (ix) The lease shall be subject to the approval of the Department and any transfer or assignment of the lease shall be further subject to the approval of the Department. Lease agreements so entered upon shall be recorded with the Westmoreland County Recorder of Deeds within 30 days of their execution and a copy of the recorded lease shall be filed with the Department and Municipality.
- (x) Homeowners' Association documentation demonstrating compliance with the provisions herein shall be filed with the final plans. At the time of Preliminary Plan submission, the applicant shall provide draft Homeowners' Association documentation with sufficient detail to demonstrate feasible compliance with this Section.

(g) Condominiums

The Open Space land and associated facilities may be held in common through the use of Condominium Declaration and other documents, approved by the Commission. Such documents shall be in conformance with the Uniform Condominium Act of 1980. All preserved land shall be held as “common elements” or “limited common elements”. Condominium agreement(s) shall be filed with the plans. At the time of Preliminary Plan submission, the applicant shall provide draft condominium agreement(s) with sufficient detail to demonstrate feasible compliance with requirements of this Ordinance.

(h) Dedication of Easements

The County/Municipality may, but shall not be required to, accept easements for public use of any portion or portions of Open Space land. The title of such land shall remain in common ownership by a Condominium or Homeowners’ Association, provided:

- (i) Such land is accessible to County/Municipality residents;
- (ii) There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance and recording fees; and
- (iii) A satisfactory maintenance agreement is reached between the Developer, Condominium or Homeowners’ Association and the Municipality.

(i) Private Easement Transfer

With the approval the Department, an Owner may transfer easements to a private or nonprofit organization recognized by the Department, whose purpose it is to conserve Open Space and/or natural resources, provided that:

- (i) The organization is acceptable to the Department, and is a bona fide conservation organization with perpetual existence;
- (ii) The conveyance contains appropriate provision for proper reverter or transfer to a receiving activity, which itself has such a clause in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
- (iii) A maintenance agreement acceptable to the Department is entered into by the Developer and the organization.

(j) Private Ownership

- (i) Open Space may be retained in ownership by the Applicant or may be transferred to other private parties subject to compliance with all standards and criteria for preserved land herein.
- (ii) All or portions of the designated preserved land may be included within or divided among one or more of the individual lots. Where deemed appropriate, the Department may require that responsibility for maintenance of preserved land be conferred upon and/or divided among the owners of one or more individual lots.

(k) Maintenance of Preserved Land and Common Facilities

Unless an alternate proposal is approved by the Department, the cost and responsibility of maintaining common facilities and preserved land shall be borne by the property owner, condominium association, homeowners ' association, or conservation organization as established by agreement.

- (i) The applicant shall provide a plan for the long term management of the designated open space which is to be created as part of the development, including maintenance and management of any wastewater disposal, water supply, stormwater management or any other common facilities which may be located within areas of designated open space. Such a plan shall include a narrative discussion of the following items:
 - 1) The manner in which the designated open space and any facilities included therein will be owned and by whom it will be managed and maintained;
 - 2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the designated open space, including conservation plan(s) approved by the Westmoreland County Conservation District where applicable;
 - 3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
 - 4) The nature of public or private access that is planned for the designated open space; and
 - 5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.

- (ii) At the time of Preliminary Plan submission, the applicant shall provide a draft open space management plan with sufficient detail to demonstrate compliance with the provisions required under this Section. The management plan shall be recorded with the Final Subdivision and Land Development Plans, in the Office of the Recorder of Deeds of Westmoreland County.
- (iii) The Department may require, as a condition of subdivision and/or land development approval, that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved management plan.
- (iv) In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application to the Planning Commission. Approval of such application by the Planning Commission shall not be unreasonably withheld or delayed, so long as:
 - 1) The proposed change is feasible, is consistent with the purposes of preservation of open space set forth in this Section and with the approved subdivision and land development plans; and
 - 2) The plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the County/Municipality.

(I) Management Plan Enforcement

- (i) In the event that a homeowners' association, condominium, any successor organization, or any owner of the open space shall, at any time after establishment of a development containing open space land, fails to maintain such land in reasonable order and condition in accordance with the development plan, the open space management plan and/or association or condominium documents as applicable, the Department may at its discretion serve written notice upon the responsible entity and the owner of record, setting forth the manner in which the responsible party has failed to maintain the open space land in reasonable order and condition and directing the responsible party or owner to remedy the condition within twenty (20) days. Such notice shall be delivered by personal service or certified mail. Upon failure of the responsible entity or owner to commence and complete the specified remedial action in accordance with the above notice, the Department may, but shall not be obligated, to take the following actions:

- 1) Enter upon the open space, accessing the same through any other lands of such entity, association or individual as may be necessary, to perform such maintenance and take any other action necessary to correct the condition provided in the above notice.
 - 2) Recover any and all costs incurred by the Department in connection with such notice and maintenance from the responsible entity. Payment shall be due within ten (10) days after written demand by the Department. Upon failure of the responsible entity to pay such costs by the time required, there shall be added thereto interest at the rate of six (6) percent per annum as well as all costs incurred by the Department in collection thereof.
- (ii) All costs of maintenance, remediation, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the responsible entity or owner. Such lien shall extend to all property of such entity or owner within the development containing the affected open space. In the case of an association, such lien shall polypro rata, against all lot owners who are members of the association, in addition to applying to the affected open space.

(m) Open Space Performance Bond

Where intended as common or public amenities, all landscape improvements, plantings, access ways, and recreational facilities within designated open space areas shall be provided by the developer. A performance bond or other security acceptable to the Department may be required to cover costs of installation of such improvements in the open space area. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements by this Ordinance.

Section 6.08 Design Process

The following process outlines the method to be used for the design of any Open Space Development.

(a) Step One: Identification of Open Space

- (i) Primary Conservation Areas: Primary Conservation Areas consist of the constrained lands listed in Section 503. All wetlands, floodplain, steep slopes, etc. listed in Section 5.04 must first be identified.
- (ii) Secondary Conservation Areas: Secondary Conservation Areas consist of noteworthy features not otherwise identified as constrained, but which should be preserved to the greatest extent possible. Such features include, but may not be limited to, prime agricultural lands, wildlife habitat, woodlands, scenic viewsheds, river and stream corridors, free-standing trees or tree groups, historic sites, etc.

(b) Step Two: Identification of Potential Development Area

Upon determining that portion of the property to be designated as Open Space, the remaining portion of the property shall be considered the Potential Development Area. At this stage, the developer should locate individual dwelling unit sites within the Potential Development Area. Locations should be chosen that offer the most optimal

views and access to the Open Space areas. Critical to site selection is the availability of water and the capacity for sewage disposal.

(c) Step Three: Identification of Streets, Trails and Paths

After the conservation and potential development areas have been determined, any proposed streets, trails and paths should then be laid out.

Section 6.09 Modifications

The Department may approve any modification of the standards set forth in this Article where the applicant has demonstrated to the satisfaction of the Department that the purposes of this Article are better served through such modification.

Article VII. Improvements

Section 7.01 Commencement of Development

No construction or land disturbance activities (not including soil percolation testing, well drilling, or similar engineering or surveying activities) shall commence until plan approval has been granted by the Department.

(a) Responsibility for Improvements

The Applicant shall be responsible for the Improvements required to provide safe and convenient ingress and egress to the development site.

(b) Coordination with Municipal Requirements

The Applicant shall be responsible for other improvements related to the results of the traffic impact study as may be agreed to with the County or Local Governing Body.

(c) Existing Improvements

If existing improvements, including Stormwater Management Facilities, on the subject tract do not meet the requirements of this Ordinance, then such Improvements must be designed and upgraded to meet the requirements of this Ordinance.

Section 7.02 Construction Required

- (a) The Department shall identify the appropriate authority as lead agency for each improvement proposed by the developer. The developer shall contact the lead agency to discuss the required specifications for materials and construction of the proposed improvements.
- (b) The applicant shall construct all streets, together with all other improvements specified on the preliminary plan and in the development agreement (Section 503), including, but not limited to, grading, paving, curbs, gutters, sidewalks, street lights, street signs, storm drainage facilities, traffic control measures in conformance with the preliminary or final plan, and developer's agreement, as approved by the lead agency.

Section 7.03 Developer's Agreements

The applicant shall prepare and execute an agreement to be approved by the lead agency and the Department and by the appropriate local governing body prior to final plan approval of a major subdivision and land development. Said agreement shall specify the following, where applicable:

- (a) The applicant agrees that he will lay out and construct all streets and other improvements, including but not limited to grading, paving, open space areas, storm water, and erosion and sedimentation control measures in accordance with the preliminary plan as approved, where the installation of any or all of these improvements are required as a requisite to final plan approval. The agreement shall also specify terms of default of the agreement for all parties entering into such agreement.
- (b) The applicant guarantees completion and maintenance of all improvements by means of a type of financial security acceptable to the lead agency, as specified in Section 505 of this Ordinance.
- (c) The applicant agrees to tender a deed or deeds of dedication to the local governing body or lead agency for such streets and for such easements for sanitary and storm sewers, sidewalks, manholes, inlets, pumping stations, and other public improvements, provided that the local governing body or lead agency shall not accept dedication of such improvements until their completion is certified as satisfactory by the local governing body or lead agency.

- (d) Whenever an applicant proposes to establish or continue a street which is not offered for dedication to public use, the lead agency may require the applicant to submit, and also to record with the plan, a copy of an agreement made with the local governing body on behalf of himself and his heirs and assigns, and signed by him, and which shall establish the conditions under which the street may later be offered for dedication, and shall stipulate, among other things:
 - (i) That an offer to dedicate the street shall be made only for the street as a whole
 - (ii) That the Department or local governing body shall not be responsible for repairing or maintaining any undedicated streets
 - (iii) That the method of assessing repair and maintenance costs of undedicated streets be stipulated, and be set forth in recorded deed restrictions so as to be binding on all successors or assigns
 - (iv) That, if dedication be sought, the street shall conform to specifications adopted by the local governing body or that the owners of the abutting lots shall, at their own expense, restore the street to conformance with the specifications of the local governing body

Section 7.04 Completion of Improvements

No plan shall be finally approved unless the streets shown on such plan have been improved to a mud free or otherwise permanently passable condition, or improved as may be required by the local governing body or lead agency and street lights, retention basins and other drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings and other improvements as may be required by the local governing body or lead agency have been installed in accordance with said Ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a subdivision or land development plan, the Department shall require that the Applicant deposit suitable financial guarantee with the local governing body or lead agency for the installation of said improvements, in an amount sufficient to enable their installation by the local governing body or lead agency in the event the applicant fails to construct improvements as set forth in the developers agreement.

Section 7.05 Improvement Guarantees

- (a) The Applicant shall deposit with the local governing body or lead agency financial security in an amount sufficient to cover the cost of all improvements (including but not limited to streets, street lights, storm water detention and/or retention facilities, pipes and other related drainage facilities, recreational facilities, open space improvements, buffer or screen plantings and except as provided for in Section 505(F) hereof.
- (b) Financial security required herein shall be in the form of a Federal or Commonwealth chartered lending institution or with a financially responsible bonding company or such other type of financial security which the local governing body or lead agency may, in its reasonable discretion, approve. The bonding company may be chosen by the party posting the financial security, provided that the said bonding company or lending institution is authorized to conduct business within the Commonwealth and stipulates that it will submit to Pennsylvania jurisdiction and the County of Westmoreland venue in the event of legal action.
- (c) The said financial security shall provide for, and secure to the public the completion of all improvements for which such security is being posted within one year of the date fixed in the development agreement for completion of such improvements.
- (d) The amount of financial security shall be equal to 110 percent of the required improvements for which financial security is to be posted. The cost of the improvements shall be established by submission to the local governing body or lead agency of bona fide bid or bids from the engineer(s) or contractor(s) chosen by the party posting the financial security to complete the improvements. All bids are subject to approval by the local governing body or lead agency. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security shall be increased by an additional 10 percent for each one year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110 percent of the cost of completing the required improvements are established on or about the expiration of the preceding one year period by using the above bidding procedure.

- (e) In the case where development is projected over a period of years, the Department may authorize submission of final plans by section or phased development, subject to such requirements or guarantees as to improvements in the future sections or stages of development as it finds essential for the protection of any finally approved section of the development, and consistent with the terms of Section 508.4 of Act 247, as amended.
- (f) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the County or local governing body, financial security to assure property completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.
- (g) As the work of installing the required improvements proceeds, the party posting the financial security may request the local governing body or lead agency to release or authorize to be released, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the local governing body or lead agency and the same shall have forty-five (45) days from receipt of such request within which to allow the engineer representing to certify, in writing, that such portion of the work upon the improvements has been completed in accordance with the approved plans and the development agreement.

Section 7.06 Inspections

- (a) The construction or installation of all improvements shall at all times be subject to inspection by representatives of the local governing body or lead agency. The local governing body or lead agency may at any time consult with an engineer for inspection of improvements and charge such fees as established in Section 207 of this Ordinance. If such inspection reveals that work is not in accordance with approved plans and specifications, the construction is not being done in a workmanlike manner, or that erosion or sediment controls are failing to prevent accelerated erosion or water-borne sediment from leaving the site of construction, the Department is empowered to require corrections to be made and to issue a cease and desist order which may include any or all of the following sanctions:

- (i) That no lot or dwelling unit in the development shall be conveyed or placed under Agreement of sale
 - (ii) That all construction on any lots shall cease; and/or
 - (iii) That no further building shall be permitted
- (b) The said cease and desist order shall be terminated upon determination by the Department that the said defects or deviations from plan requirements have been corrected.
- (c) No underground pipes, structures, sub grades, or base course shall be covered until inspected and approved by the lead agency and the local governing body. A minimum of seven (7) inspections by the designated representative may be required. These inspections may be carried out in accordance with Section 506 and may be required at the following intervals:
- (i) Upon completion of rough grading, but prior to placing top soil, installing permanent drainage or other site improvements or establishing covers.
 - (ii) Upon excavation and completion of sub grade.
 - (iii) Upon excavation, installation, and completion of drainage structures, community sewage systems, or water supply systems.
 - (iv) Before placing stone base course, or before initial layer of screenings.
 - (v) Before binder course
 - (vi) Before wearing course
 - (vii) Final inspection

Section 7.07 Release from Improvement Guarantee

- (a) When the Applicant has completed all of the necessary and appropriate improvements, he shall notify the local governing body or lead agency, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the local governing body or lead agency authorizing the local governing body or lead agency's engineer to inspect all of the aforesaid improvements. The local governing body or lead agency shall, within 10 days after receipt of such notice, direct and authorize the engineer representing the local governing body or lead agency to inspect all of the aforesaid improvements. The local governing agency or lead agency's engineer shall, thereupon, file a report, in writing, with the local governing body, or lead agency, and the local governing body or lead agency's engineer shall promptly mail a copy of the same to the Applicant by certified mail. The report shall be made and mailed within 30 days after receipt by the engineer representing the local governing body or lead agency; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof, shall not be approved or shall be rejected by the local governing body or lead agency's engineer, said report shall contain a statement of reasons for such non-approval or rejection.
- (b) The local governing body or lead agency shall notify the Applicant, in writing, by certified mail of the action of the local governing body or lead agency with regard to approval, non-approval or rejection of improvements.
- (c) If any portion of the said improvements shall not be approved or shall be rejected by the local governing body or lead agency, the Applicant shall proceed to complete those improvements and upon completion, the same procedure of notification as outlined herein shall be followed.
- (d) The Applicant shall be responsible for maintenance of all subdivision or land development improvements until such improvements are offered for dedication and are accepted by the local governing body or lead agency. In addition, ten (10) percent of the improvement guarantee may be held back by the local governing body or lead agency until the Applicant has posted a maintenance guarantee as provided for in Section 510.
- (e) Partial releases of the performances guarantee during the period of construction shall be authorized as per Section 505(G) of this Ordinance.

Section 7.08 Completion Remedies

In the event that any improvements which may be required have not been installed as provided for by this Ordinance or in accordance with the approved final plan or development agreement, the local governing body and lead agency are hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the local governing body or lead agency may, at its option, install part of such improvements in all or part of the subdivision or land development and institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements. All proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the

installation of the improvements covered by such security and not for any other municipal purpose.

Section 7.09 Dedication and Acceptance of Public Improvements

- (a) Upon completion of any public improvements shown on an approved plan and within ninety (90) days after approval of such public improvements as herein provided, the developer shall submit a written offer of such public improvements for dedication to the local governing body or lead agency. Said offer shall include a deed of dedication covering said public improvements together with satisfactory proof establishing the Applicant's clear title to said property. Such documents are to be filed with the secretary of the local governing body or lead agency for review by the Solicitor of the local governing body or lead agency. Deeds of dedication for public improvements may be accepted by resolution of the local governing body or lead agency at a regular meeting thereof. Should the streets, or other improvements, even though constructed according to the specifications of this Ordinance, deteriorate, such streets and other improvements, shall be repaired in a manner acceptable to the local governing body or lead agency before being accepted by the local governing body or lead agency.
- (b) The Department, local governing body or led agency may require that certain subdivision and land development improvements remain undedicated, with maintenance the responsibility of individual lot owners, a homeowner's association or similar entity, or an organization capable of carrying out maintenance responsibilities.

Section 7.10 Maintenance Guarantee

- (a) Where the local governing body or lead agency accepts dedication of all or some of the required improvements following completion (whether such dedication is of the fee or of an easement), the local governing body or lead agency may require the posting of financial security to secure the structural integrity of the improvements and the functioning of the improvements in accordance with the agreed to design specifications. The security shall be in the form as is authorized for the deposit of the improvement guarantee, as described in Section 505 hereof, shall be for a term of 18 months from the date of the acceptance of dedication, and shall be in an amount equal to 15 percent of the actual costs of installation of the improvements so dedicated.
- (b) Where maintenance of storm water retention facilities, private streets, or other improvements are to be the responsibility of individual lot owners, a homeowner's association or similar entity, or an organization capable of carrying out maintenance responsibilities, the Department may require that maintenance responsibilities be set forth in perpetual covenants or deed restrictions binding on the landlord's successors in interest, and may further require that an initial maintenance fund be established in a reasonable amount.

Article VIII. Certifications

Section 8.01 Owner’s Certification

On this, the ___ day of _____, 20___, before me, the undersigned officer, personally appeared _____, who being duly sworn according to law deposes and says that he is the owner(s) of the property shown on this plan, that the plan thereof was prepared at his direction, that he acknowledges the same to be his act and plan, that he desires the same to be recorded, and that all streets and other property identified as proposed public property (excepting those areas labeled “NOT FOR DEDICATION” are, hereby, upon the recording of this plan, dedicated to the public use.

Owner’s Signature

Owner’s Signature

MY COMMISSION EXPIRES:

Date Signature of Notary

(SEAL)

Section 8.02 Surveyor’s or Engineer’s Certification

I _____, a Registered Professional Land Surveyor or a Professional Engineer, of the Commonwealth of Pennsylvania, do hereby certify that this plan currently represents the lots, land, streets, and all other improvements as surveyed by me for the owners or agent of the owner. I further certify that this plan meets with the requirements of all provisions of the Pennsylvania Municipalities Planning Code, Act 247, as amended, and other ordinances, including zoning, existent under the municipality in which the subdivision is located and affecting this plan.

(Signature of Surveyor or Engineer) (Date)

(Registration Number) (Seal)

Section 8.03 Preliminary Plan Approval

A. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, preliminary plan approval is granted by the Westmoreland County Department of Planning and Development this ___ day of _____ 20___.

(Signature) (Date)

(Seal)

B. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, preliminary plan approval is granted by the (Local Municipality) this day ___ of _____ 20___.

(Signature) (Date)

(Seal)

C. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, preliminary plan approval is granted by the (Local Municipality Planning Commission) this ___ day of _____ 20__.

(Signature) (Date)

(Seal)

Section 8.04 Final Plan Approval

A. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, final plan approval is granted by the Westmoreland County Department of Planning and Development this ___ day of _____ 20__.

(Signature) (Date)

(Seal)

B. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, final plan approval is granted by the (Local Municipality) this day ___ of _____ 20__.

(Signature) (Date)

(Seal)

C. Having satisfied the requirements of the Westmoreland County Subdivision and Land Development Ordinance, final plan approval is granted by the (Local Municipality Planning Commission) this ___ day of _____ 20__.

(Signature) (Date)

(Seal)

Section 8.05 Recorder's Certification

Recorded in the Office of the Recorder of Deeds, in and forth for the County of Westmoreland within Instrument Number _____.

(Signature)(Date)

(Seal)

Section 8.06 Application Form

**WESTMORELAND COUNTY PLANNING DEPARTMENT
APPLICATION FOR CONSIDERATION OF A SUBDIVISION PLAN
AND/OR LAND DEVELOPMENT PLAN**

For Planning Department Use Only

File Number _____

Date of Receipt _____

Date Review Letter Sent _____

Final Approval Date _____

Complete Submission _____

1. Review Phase (please check one)

Sketch Review

Preliminary Review

Final Review

2. Application Type (check all that apply)

Traditional Subdivision

Non-Residential Land Development

Lot-Line Revision

Consolidation Plan

Residential Land Development

Revised Plan

Side-Lot Addition

3. Plan Name

Plan Date

4. Project Location (street address if different than owner's)

Address

Municipality

5. Name of Property Owner(s)

Address

Source of Title (DBV & Page or Instrument Number)

Tax Map Identification Number

 - - - -

Second Property Owner(s)

Address

Source of Title (DBV & Page or Instrument Number)

Tax Map Identification Number

 - - - -

6. Land Use and Number of Lots and/or Units (indicate answer by number)

- | | |
|---|--|
| <input type="checkbox"/> Single-Family Detached | <input type="checkbox"/> Commercial |
| <input type="checkbox"/> Multi-Family Attached | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Agricultural | <input type="checkbox"/> Institutional |
| <input type="checkbox"/> Mixed Use | <input type="checkbox"/> Other (please specify) <input type="text"/> |

7. Name of Agent (if other than owner)

Address

8. Firm Which Prepared the Plan

Address

Contact Name

Phone

9. Zoning District (if applicable)

Is a zoning variance, special exception and/or conditional use approval necessary? (Y/N)

If so, please specify

10. Type of Water Supply Proposed

- | | |
|--|---|
| <input type="checkbox"/> Public Owned Community System | <input type="checkbox"/> Privately Owned Community System |
| <input type="checkbox"/> Private On-Lot Well | |

11. Type of Sanitary Sewage Disposal Proposed

- | | |
|--|---|
| <input type="checkbox"/> Connection to Public System | <input type="checkbox"/> Private Community System |
| <input type="checkbox"/> Individual On-Lot | <input type="checkbox"/> Community On-Lot |
| <input type="checkbox"/> Experimental | |

12. Sewage Facilities Plan Revision Component or Supplement Number

Date Submitted

**WESTMORELAND COUNTY PLANNING DEPARTMENT
APPLICATION FOR MODIFICATION OF REQUIREMENTS
OF SUBDIVISION AND/OR LAND DEVELOPMENT APPLICATION**

For Planning Department Use Only

File Number _____

Date of Receipt _____

Date Review Letter Sent _____

Final Approval Date _____

1. Plan Name

Plan Date

2. Specific Section(s) for which a Modification is Requested

The Proposed Alternative to the Requirement

Justification for the Modification

Article IX. Enactments

ORDAINED AND ENACTED by the Board of Commissioners of the County of Westmoreland, Pennsylvania, this 19th day of December, 2013.

ATTEST:

BOARD OF COMMISSIONERS
OF WESTMORELAND COUNTY

Chief Clerk

Charles W. Anderson, Chairman

R. Tyler Courtney, Vice Chairman

Ted Kopas, Secretary

APPENDIX I

[MODEL] DEVELOPER'S AGREEMENT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS IN CONJUNCTION WITH PRELIMINARY PLAN APPROVAL

This Developer's Agreement is entered into by and between the following parties:

_____ (Name of Municipality), hereinafter called "City/Borough/Township/Municipality" and _____, hereinafter called "Developer".

RECITALS:

WHEREAS, Developer has submitted to the County a plan and application for Subdivision or Land Development Plan located in _____ which is known and designed as _____.

WHEREAS, City/Borough/Township/Municipality and Developer desire to set forth their understanding concerning the Developer's agreement and responsibility to install the Public Improvements and pay the costs involved in processing, inspecting, and reviewing Developer's Subdivision and Land Development Plan.

NOW, THEREFORE, intending to be legally bound hereby, City/Borough/Township/Municipality and Developer agree as follows:

1. The Developer, at their own cost and expense, shall proceed to perform and complete only those Public Improvements required by the Developer's Subdivision and Land Development Plan, subject to the approval of the plan and specifications by the Township.
2. The Developer, prior to the commencement of work, shall provide in writing to the City/Borough/Township/Municipality a notice of intent to commence construction and to provide an anticipated construction commencement date.
3. The City/Borough/Township/Municipality, or its designee, and the Developer shall agree upon a notification procedure and a schedule of field inspections to be made during construction and upon completion of all Public Improvements.
4. Upon completion of the Public Improvements, the Developer shall give notice to the City/Borough/Township/Municipality, in writing, to inspect the Public Improvements. The City/Borough/Township/Municipality shall inspect the Public Improvements within ten (10) days and shall approve same if they are completed in accordance with the Subdivision or Land Development Plan and acceptable engineering practices. If the City/Borough/Township/Municipality disapproves, they shall notify the Developer promptly.
5. Developer agrees to reimburse the City/Borough/Township/Municipality for professional engineering consultant services, Westmoreland County Planning Department services necessitated by the review and approval of the developer's plans and necessitated by the review

and inspection of all required Public Improvements (both at the plan and installation stages) at the prevailing rate, plus associated itemized expenses, where applicable. It is agreed that professional engineering consultant services, and Westmoreland County Planning Department services shall be payable by developer within forty-five (45) days after the date of invoice and prior to final approval of developer's Subdivision or Land Development Plan.

6. Where applicable, developer agrees to reimburse the City/Borough/Township/Municipality for solicitor services necessitated by the review and approval of the developer's plan, and necessitated by the review of all required financial security and other agreements. It is agreed the solicitor's services shall be payable within forty-five (45) days after the date of invoice and prior to final approval of developer's Subdivision or Land Development Plan.

7. Notwithstanding the foregoing, developer reserves the right to contest the amount and/or reasonableness of the fees pursuant to the provisions of the MPC.

IN WITNESS WHEREOF, the parties hence caused this Developer's Agreement to be executed, dated this _____ day of _____, 20____.

MUNICIPAL GOVERING BODY

(Notary Seal) DEVELOPER

APPENDIX II

[MODEL] DEVELOPER’S AGREEMENT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS IN CONJUNCTION WITH FINAL PLAN APPROVAL

This Developer’s Agreement is entered into by and between the following parties:

_____ (Name of Municipality), hereinafter called “City/Borough/Township/Municipality” and _____, hereinafter called “Developer”.

RECITALS:

WHEREAS, Developer has submitted to the County a plan and application for a Subdivision or Land Development Plan located in _____ which is known and designated as _____.

WHEREAS, City/Borough/Township/Municipality has required and Developer has agreed that Public Improvements shall be completed by the Developer, as provided in Article VII of the _____ (Name of Municipality) Subdivision and Land Development Ordinance of 20____, as amended.

WHEREAS, City/Borough/Township/Municipality and Developer desire to set forth their understanding concerning the Developer’s agreement and responsibility to install the Public Improvements and pay the costs involved in processing, inspecting, and reviewing Developer’s Subdivision or Land Development Plan.

NOW, THEREFORE, intending to be legally bound hereby, City/Borough/Township/Municipality and Developer agree as follows:

1. The Developer, at their own cost and expense, shall proceed to perform and complete only those Public Improvements required by the Developer’s Subdivision or Land Development Plan, subject to the approval of the plans and specifications by the City/Borough/Township/Municipality.
2. The City/Borough/Township/Municipality, or its designee, and the Developer shall agree upon a notification procedure and a schedule of field inspections to be made during construction and upon completion of all Public Improvements.
3. Upon completion of the Public Improvements, the Developer shall give notice to the City/Borough/Township/Municipality, in writing, to inspect the Public Improvements. The City/Borough/Township/Municipality shall inspect the Public Improvements within ten (10) days and shall approve same if they are completed in accordance with the Subdivision or Land Development Plan and acceptable engineering practices. If the City/Borough/Township/Municipality disapproves, they shall notify the Developer promptly.
4. Developer agrees to reimburse the City/Borough/Township/Municipality for professional engineering consultant services, and Westmoreland County Planning Department services

necessitated by the review and approval of the developer's plans and necessitated by the review and inspection of all required Public Improvements (both at the plan and installation stages) at the prevailing rate, plus associated itemized expenses, where applicable. Developer agrees to reimburse the City/Borough/Township/Municipality for engineering, professional consultant services, and Westmoreland County Planning Department services associated with the As-Built Plan review. It is agreed that professional engineering consultant services, and Westmoreland County Planning Department services shall be payable by developer within forty-five (45) days after the date of invoice and prior to final approval of developer's Subdivision or Land Development Plan.

5. Where applicable, developer agrees to reimburse the City/Borough/Township/Municipality for solicitor services necessitated by the review and approval of the developer's plan and necessitated by the review of all required financial security and other agreements. It is agreed the solicitor's services shall be payable within forty-five (45) days after the date of invoice and prior to final approval of developer's Subdivision or Land Development Plan.

6. Notwithstanding the foregoing, developer reserves the right to contest the amount and/or reasonableness of the fees pursuant to the provisions of the MPC.

IN WITNESS WHEREOF, the parties hence caused this Developer's Agreement to be executed, dated this _____ day of _____, 20_____.

MUNICIPAL GOVERNING BODY

(Notary Seal) DEVELOPER

APPENDIX III

[MODEL] FINANCIAL SECURITY AGREEMENT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS

This Financial Security is entered into by and between the following parties:

_____ (Name of Municipality), hereinafter called “City/Borough/Township/Municipality” and _____, hereinafter called “Developer”.

RECITALS:

WHEREAS, Developer has submitted to the County a Plan and application for a Subdivision and Land Development Plan located on _____ which is known and designated as _____.

WHEREAS, City/Borough/Township/Municipality and Developer desire to set forth their understanding concerning the Developer’s agreement and responsibility to install the Public Improvements, provide a financial security, and pay the costs involved in inspecting and approving Developer’s Subdivision or Land Development Plan.

NOW, THEREFORE, intended to be legally bound hereby, City/Borough/Township/Municipality and Developer agree as follows:

1. The Developer, at their own cost and expense, shall proceed to perform and complete all Public Improvements required by the Developer’s Subdivision or Land Developer Plan, subject to the approval of the Plans and specifications by the Township.
2. To assure completion of the Public Improvements required as a condition for the final approval of the Developer’s Subdivision and Land Development Plan, the Developer shall provide for deposit with the City/Borough/Township/Municipality, financial security (consistent with Article VII of the Westmoreland County Subdivision and Land Development Ordinance of 20_____, as amended, in the amount sufficient to cover the costs of all Public Improvements, including, but not limited to, Streets, Street signs, sidewalks, curbs, Landscaping, storm drainage for Dedication or which affect adjacent properties or Streets, sanitary sewer facilities for Dedication, water supply facilities for Dedication, fire hydrants, Lot Line Markers, survey Monuments, and other related facilities. Such security shall provide for, and secure the completion of the Public Improvements within one (1) year of the date fixed in the Subdivision or development Plan. The amount of financial security shall be equal to one hundred ten percent (110%) of the cost of the required Public Improvements for which financial security is posted. The cost of the Public Improvements shall be established by submission to the City/Borough/Township/Municipality of an estimate prepared by the Developer’s Engineer, subject to review, comment, and approval by the City/Borough/Township/Municipality or its designees.

3. The City/Borough/Township/Municipality, or its designee, and the Developer shall agree upon a notification procedure and a schedule of field inspections to be made during construction and upon completion of all Public Improvements.

4. Upon completion of the Public Improvements, the Developer shall give notice to the City/Borough/Township/Municipality or its designee, in writing, to inspect the Public Improvements. The City/Borough/Township/Municipality or its designee shall inspect the Public Improvements within ten (10) days and shall approve same if they are completed in accordance with the Subdivision or Land Development Plan and acceptable engineering practices. If the City/Borough/Township/Municipality or its designee disapproves, they shall notify the Developer promptly.

5. Developer agrees to reimburse the City/Borough/Township/Municipality for professional engineering consultant services, necessitated by the review and approval of the developer's Plans and necessitated by the review and inspection of all required Public Improvements at the prevailing rate, plus associated itemized expenses, where applicable. It is agreed that engineering, professional consultant services shall be payable by Developer within ten (10) days after the date of invoice and prior to final approval of developer's Subdivision or Land Development Plan.

6. Where applicable, Developer agrees to reimburse the City/Borough/Township/Municipality for solicitor services necessitated by the review and approval of the developer's Plan(s), and necessitated by the review of all required financial security and other agreements. It is agreed the solicitor's services shall be payable within ten (10) days after the date of invoice and prior to final approval of Developer's Subdivision or Land Development Plan.

IN WITNESS WHEREOF, the parties hence caused this Financial Security to be executed, dated this _____ day of _____, 20_____.

MUNICIPAL GOVERNING BODY

(Notary Seal) DEVELOPER
