

## **PART 1 - GENERAL PROVISIONS**

### **SECTION 100      TITLE**

- A. This Chapter shall be known and may be cited as "The Subdivision and Land Development Ordinance of the Borough of Highspire".

### **SECTION 101      PURPOSE AND INTENT**

- A. This Chapter has been designed and adopted to provide uniform standards and procedures for the regulation of subdivision and land development within the Borough of Highspire, Dauphin County, Pa. The purpose of such regulations is to provide for the harmonious development in the Borough by:
1. Assuring sites are suitable for building purposes and human habitation;
  2. Assisting in the orderly, efficient, and integrated development of land;
  3. Protecting existing neighborhoods and other areas and important character defining development types, features, and patterns of said neighborhoods and areas;
  4. Promoting innovative design and enhancing a strong sense of community;
  5. Coordinating existing and proposed streets and other proposed public improvements;
  6. Assuring that adequate easements and rights-of-way are provided for drainage facilities, public utilities, streets, and other public improvements;
  7. Assuring coordination of intra, and inter-municipal public improvement plans and programs;
  8. Assuring the efficient and orderly extension of community facilities and services at minimum cost and maximum convenience;
  9. Regulating the subdivision and land development of land within any flood hazard area or floodplain district in order to promote the health, safety and welfare of the citizens of the Borough of Highspire;
  10. Requiring that each lot in flood prone areas includes a safe building site with adequate access, and that public facilities which serve such uses be designed and installed to minimize flood damage;
  11. Providing for the management of stormwater in coordination with Chapter 9 of the Codified Ordinances of the Borough of Highspire relating to stormwater management;
  12. Assuring that reservations, if any, by the developer of any area designated for use as public grounds shall be suitable in size and location for their designated uses;
  13. Guiding the future growth and development through provisions encouraging adaptive reuse, replacement, infill, redevelopment, and new development in the Borough of Highspire;

14. Assuring the greater health, safety, convenience and welfare to the citizens of Borough of Highspire;
15. Ensuring the protection of water resources and drainageways;
16. Ensuring the efficient movement of traffic;
17. Ensuring the equitable administration, processing, and enforcement of all subdivision and land development plans by providing uniform standards and procedures;
18. Assuring that documents prepared as part of a land ownership transfer fully and accurately describe the parcel of land being subdivided and the new parcel(s) thus created, as well as lots being developed;
19. Implementing the most recent version of the Highspire Borough Comprehensive Plan
20. Effecting any additional purposes provided for in Articles I and V of the Pennsylvania Municipalities Planning Code (MPC).

## **SECTION 102 STATUTORY AUTHORITY**

- A. This Chapter is enacted and ordained under the grant of powers contained in the MPC.
  1. The Borough Council of Highspire shall have the authority to approve or disapprove all preliminary and final subdivision or land development plan applications, including modifications, as required herein.
  2. The Borough of Highspire Planning Commission is hereby designated as the agency, which shall review and make recommendations to the Borough Council on all subdivision and land development plan applications, including modifications, as required herein.
  3. Preliminary and final subdivision and land development plan applications within the Borough of Highspire shall be forwarded upon receipt, with the appropriate review fee, to the Dauphin County Planning Commission for review and report. The Borough Council of Highspire shall not approve such applications until the County review report is received or until the expiration of thirty (30) days from the date, the application was forwarded to the County Planning Commission.

## **SECTION 103 APPLICATION OF REGULATIONS**

- A. No subdivision or land development of any lot, tract, or parcel of land located in the Borough of Highspire shall be effected; no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings thereon unless and until a final subdivision or land development plan has been approved by the Borough Council and recorded in the manner prescribed herein. Furthermore, no property shall be developed, no building shall be erected and no site improvements shall be completed except in strict accordance with the provisions of this Ordinance..
- B. No lot in a subdivision may be sold; no permit to erect or alter any building upon land in a subdivision or land development may be issued; and no building may be erected or altered in a

subdivision or land development, unless and until a final subdivision or land development plan has been approved by the Borough Council and recorded, and until the improvements required in connection therewith have been either constructed or guaranteed in a manner prescribed herein.

- C. Unit or condominium subdivision of real property is included within the meaning of subdivision and land development as defined herein, and must comply with these regulations. Such compliance shall include, but not be limited to, the filing of preliminary and final plan, payment of established fees and charges, location of each structure and clear definition of each unit, public easements, common areas, improvements, and all easements appurtenant to each unit.
- D. All subdivision and land development plans are subject to all applicable zoning regulations set forth in Chapter 27 of the Codified Ordinances of the Borough of Highspire relating to zoning.
- E. Pending Applications.
  - 1. Per Article V, as revised of the MPC, the provisions of this Chapter shall not affect an application for approval of a subdivision and/or land development plan which is pending action at the time of the effective date of this Chapter, in which case applicant shall be entitled to a decision in accordance with the governing ordinances as they stood at the time when the application for such plan was duly filed. Additionally, this Chapter shall not affect any suit or prosecution, pending or to be instituted, to enforce any provision of the Highspire Borough, as amended, or any applicable predecessor regulations on an act done, contract executed, or liability incurred prior to the effective date of this Chapter.
- F. Previously Approved Plans.
  - 1. If an applicant has received approval of a preliminary or final plan prior to the effective date of this Chapter, no provision of this Chapter shall be applied to adversely affect the right of the applicant to commence and complete any aspect of the approved preliminary or final plan in accordance with the terms of such approval within five (5) years of the date of such application, nor shall any provision of this Chapter be construed to waive the obligations imposed upon an applicant to complete a previously approved preliminary or final plan, including the installation of all improvements, in strict compliance with the requirements of such approval. When approval of a final plan has been preceded by approval of a preliminary plan, the five (5) years shall be counted from the date of preliminary plan approval. If there is any doubt as to the terms of approval, the terms shall be construed in light of the provisions of the governing ordinances as they stood at the time when the application for such approval was duly filed.
- G. Existing Improvements.
  - 1. If existing improvements, including stormwater management facilities, on the subject tract do not meet the requirements of this Chapter, then such improvements must be designed and upgraded to meet the requirements of this Chapter in conjunction with an application for development.

## **SECTION 104      CHAPTER AMENDMENTS**

- A. Purpose

For the purpose of protecting the public health, safety and general welfare, amendments to this Chapter may, from time to time, be proposed.

B. Procedure

All proposals for amendments shall be made in accordance with the following procedure:

1. Proposal.  
Amendments to this Chapter may, from time to time, be proposed by the Highspire Borough Council on its own motion, or by the Highspire Borough Planning Commission. In addition, any landowner may propose an amendment to this Chapter, in which event the Highspire Borough Council, at its sole option, may initiate procedures for amendment by referring the proposed amendment to the Highspire Borough Planning Commission.
2. Review by Highspire Borough Planning Commission.
  - a. In the case of an amendment other than that proposed by the Highspire Borough Planning Commission, the Highspire Borough Council shall submit each such amendment to the Highspire Borough Planning Commission for recommendations at least forty-five (45) days prior to the date of the public hearing on the proposed amendment. The Highspire Borough Council shall also submit the proposed amendment to the Dauphin County Planning Commission for recommendations at least forty-five (45) days prior to the date of the public hearing.
3. Action by Highspire Borough Council.
  - a. Amendments shall be approved or disapproved by the Highspire Borough Council after a public hearing held pursuant to public notice, as defined in the MPC in accordance with the procedural requirements of Section 505 and 506 of the MPC.
4. Notification of Borough Action.
  - a. Within thirty (30) days of said approval, the Highspire Borough Council shall forward a certified copy of any amendment to this Chapter the Dauphin County Planning Commission.

## **SECTION 105 ENFORCEMENT AND PENALTIES**

### **A. Enforcement.**

1. It shall be the duty of the Highspire Borough Council (or its designee) to enforce this Chapter and to bring any violations of these regulations to the attention of the Borough Solicitor. Formal enforcement proceedings may be initiated by the Borough Council (or its designee) in the name of the Borough after authorization by the Highspire Borough Council.

### **B. Penalties.**

1. Preventive Remedies.
  - a. In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages, and to prevent illegal occupancy of a building, structure, or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
2. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision or development of real property in violation of this Chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:
  - a. The owner/owners of record at the time of violation;
  - b. The vendee or lessee of the owner of record at any time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation;
  - c. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the action; or
  - d. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
3. As an additional condition for issuance of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.
4. Enforcement Remedies.
  - a. Any person, partnership or corporation who or which has violated the provisions of this Chapter shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500) plus all court costs including reasonable attorneys fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment,

the Borough may enforce the judgment pursuant to the rules of civil procedures. 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 Chapter to have been believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.

- b. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem 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 Borough the right to commence any action for enforcement pursuant to this Section.

#### **SECTION 106 MUNICIPALITY LIABILITY.**

- A. The granting of a permit or approval of a plan for any proposed subdivision or land development to be located within any designated floodplain district shall not constitute a representation, guarantee or warranty of any kind or nature by the Borough of Highspire, or an official or employee, thereof, of the safety of any structure, building, use or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against such public official or employee for any damage that may be pursuant thereto.

#### **SECTION 107 INTERPRETATION**

- A. In interpreting and applying this Chapter, its provisions shall be held to be the minimum requirements for promotion of health, safety, morals and general welfare of the Borough of Highspire. This Chapter is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions, or reservations contained in deeds or other agreements, but if this Chapter imposes more stringent restrictions than are elsewhere established, the provisions of this Chapter shall prevail. Wherever and whenever the requirements of this Chapter are at variance with the requirements of any other lawfully adopted laws, rules, regulations, chapters, or ordinances, the most restrictive or that imposing the higher standards shall govern.

#### **SECTION 108 SEVERABILITY.**

- A. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Chapter shall continue to be separately and fully effective.

**SECTION 109 REPEALER.**

- A. The pre-existing Chapter 22 of the Codified Ordinances of the Borough of Highspire, also known as the Borough of Highspire Subdivision and Land Development Ordinance (SALDO), as amended, is hereby expressly repealed; provided, further that nothing in this Chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any approval granted or any cause or causes of action arising prior to the enactment of this Chapter. All chapters and ordinances or parts of chapters and ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the pre-existing Chapter 22 of the Codified Ordinances of the Borough of Highspire as amended shall, as nearly as possible, be construed to reference this Chapter.

**SECTION 110 EFFECTIVE DATE.**

- A. This Chapter shall take effect on 4<sup>th</sup> day of November, 2009 as enacted and ordained by the Borough Council of the Borough of Highspire on the 15<sup>th</sup> day of December, 2009.