

**SUBDIVISION
AND
LAND DEVELOPMENT
ORDINANCE**

HARBORCREEK TOWNSHIP
ERIE COUNTY, PENNSYLVANIA

ORDINANCE NO. 01-180

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ARTICLE I
GENERAL PROVISIONS

SECTION 101 SHORT TITLE

This Ordinance shall be known as the "Harborcreek Township Subdivision and Land Development Ordinance."

SECTION 102 GRANT OF POWER

The governing body of the municipality may regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance pursuant to the Pennsylvania Municipalities Planning Code (MPC). The ordinance shall require that all subdivision and land development plats of land situated within the municipality shall be submitted for approval to the governing body and for review to the planning agency. All powers granted herein to the governing body or the planning agency shall be exercised in accordance with the provisions of the subdivision and land development ordinance. In the case of any development governed by planned residential development provisions adopted pursuant to the MPC, however, the applicable provision of the subdivision and land development ordinance shall be as modified by such provisions and the procedures which shall be followed in the approval of any plat, and the rights and duties of the parties thereto shall be governed by the MPC and the provisions adopted thereunder. Provisions regulating mobile home parks shall be set forth in separate and distinct articles of any subdivision and land development ordinance adopted pursuant to the MPC or any planned residential development provisions adopted pursuant to the MPC.

SECTION 103 JURISDICTION OF COUNTY PLANNING AGENCY

Applications for subdivision and land development located within a municipality having adopted a subdivision and land development ordinance as set forth in the MPC shall be forwarded upon receipt by the municipality to the county planning agency for review and report together with a fee sufficient to cover the costs of the review and report which fee shall be paid by the applicant. Provided, that such municipalities shall not approve such applications until the county report is received or until the expiration of 30 days from the date the application was forwarded to the county

SECTION 104 EFFECT OF SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

Where a subdivision and land development ordinance has been enacted by a municipality under the authority of the MPC, no subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of such ordinance.

SECTION 105 CONFLICT OF PROVISIONS

In the event that there is a resolution or ordinance of the municipality, or any part of any resolution or ordinance of the municipality, conflicting with the provisions of this Ordinance, then the provision with the highest standard or the more stringent shall be utilized.

SECTION 106 MUNICIPALITY RESPONSIBILITY

The provisions within this Ordinance are designed to fulfill the objectives cited in the Harborcreek Township Zoning Ordinance. The degree of protection sought by the provisions and requirements of this Ordinance for the present and future residents and landowners in the municipality is considered reasonable for regulatory purposes. This Ordinance does not imply that compliance with the provisions and requirements will be free from inconvenience, conflicts, dangers or damages. Therefore, this Ordinance shall not create liability on the part of individual members of the governing body or the planning agency or any officer, appointee or employee of the municipality for any damages that may result from reliance on this Ordinance or any administrative decision lawfully made there under.

SECTION 107 LANDOWNER/DEVELOPER RESPONSIBILITY

An applicant under the administration of this Ordinance, which is the owner of land or structures and/or the developer of land or structures, in the municipality is responsible for compliance with all federal, state, county and authority statutes, ordinances, rules and regulations. The municipality is responsible only for compliance with those statutes, ordinances, rules and regulations that it adopts.

SECTION 108 EFFECTIVE DATE

This Ordinance is adopted by the Harborcreek Township Board of Supervisors on November 28, 2001 and is effective immediately upon adoption. Ordinance Number 82-90 and all its Amendments are repealed.

ARTICLE II

DEFINITIONS

SECTION 201 GENERAL TERMS

Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations, have the meaning indicated: Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, unincorporated association and a partnership as well as an individual. The word "building" shall be construed as if followed by the words "or part thereof" and "watercourse" includes "drain" and "ditch" and "stream." The words "shall" and "will" are mandatory; and the word "may" is permissive. The words "plat" and "plan" are interchangeable.

SECTION 202 DEFINED TERMS

Alley

A permanent service way providing secondary means of vehicular access to abutting lands.

Applicant

A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns. (MPC definition)

Application for Development

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

Authority

A body politic and corporate created pursuant to the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945". (MPC definition)

Block

Property abutting on one side of a street, and lying between the two nearest intersection or intercepting streets and railroad right-of-way, waterway, unsubdivided area or other definite barrier.

Building

Any structure, or part thereof, affixed to the land

Building Set-Back Line

The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line.

Cartway

The surface of a street or alley available for vehicular traffic.

Common Open Space

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

Comprehensive Plan

The Harborcreek Township Comprehensive Plan.

Cross Walk

A right-of-way which cuts across a block to furnish access for pedestrians to adjacent streets or properties.

County Planning Agency

The Erie County Department of Planning.

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. (MPC definition)

Development Plan

The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of the development plan" when used in this Ordinance shall mean the written and graphic materials referred to in this definition. (MPC definition)

Easement

A grant by the property owner to the use of a strip of land by the public, a corporation, or persons for specified purposes, and land reserved and privately owned for use as access for vehicles, utilities, etc.

Governing Body

The Harborcreek Township Board of Supervisors.

Land Development

Any of the following activities:

The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- i. 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; or
- ii. 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.

A subdivision of land.

"Land development" does not include development which involves:

- i. The conversion of any 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.
- ii. The addition of any accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
- iii. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities. (MPC definition)

Land Development - Major

A land development over 50,000 square feet of new impervious areas (including building, parking, sidewalk, driveways, and graveled) wherein the submission of preliminary and final land development plans by the developer is required by the Supervisors.

Land Development - Minor

A land development consisting of 5,001 to 50,000 square feet of new impervious areas (including building, parking, sidewalk, driveways, and graveled) wherein the Supervisors may waive the requirements of submitting a preliminary plan provided the final plan meets all the requirements of this Ordinance.

Land Development – Staff Review

A land development consisting of 1 to 5,000 square feet of new impervious areas (including building, parking, driveway and graveled) or major renovations and/or change of use of structure wherein the Zoning Administrator and Township Engineer reviews the plan for compliance in this ordinance.

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 person having a proprietary interest in land. (MPC definition)

Lot

A portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or for development. In determining the size of a lot, no part of a right-of-way, street, crosswalk, or easement may be included.

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. (MPC definition)

Lot Depth

The mean horizontal distance between the front and rear lines of a lot.

Lot Double Frontage

A lot, the generally opposite ends of which both abut on streets.

Lot Width

The mean horizontal distance between side property lines of a lot.

Mobile Home

A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. (MPC definition)

Mobile Home Lot

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home. (MPC definition)

Mobile Home Park

A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes. (MPC definition)

MPC

The Pennsylvania Municipalities Planning Code, as amended.

Municipal Authority

The Harborcreek Township Sewer Authority.

Municipal Consultant

A technical or professional expert retained by the municipality for the administration of this Ordinance.

Municipal or Township Engineer

The Harborcreek Township Engineer.

Municipal or Township Solicitor

The Harborcreek Township Solicitor.

Municipality

Harborcreek Township, Erie County, Pennsylvania.

Parking Bay

The parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

Plan, Sketch

An informal plan not necessarily to scale indicating existing features of a tract and its surroundings and general layout of the proposed subdivision.

Plan, Preliminary

A tentative plan indicating the proposed layout of a subdivision or land development prepared by the subdivider or developer for submission to the Planning Commission and Supervisors for consideration.

Plan, Final

A complete and exact subdivision or land development plan prepared for submission to the Township for consideration and official recording as required by this ordinance.

Planning Department

Harborcreek Township Zoning Administrator and Township Engineer

Planning Agency or Commission

The Harborcreek Township Planning Commission.

Planned Residential Development

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance. (MPC definition)

Plat

The map or plan of a subdivision or land development, whether preliminary or final. (MPC definition)

Residential Cluster Development

A contiguous or noncontiguous area to be developed as a single entity according to a plan containing multi-family dwelling structures which have a common or public open space area as an appurtenance.

Right-Of-Way

Land dedicated and publicly owned for use as a street, alley, or crosswalk.

Street

Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. (MPC definition)

A street may also be identified according to type of use as follows:

a. **Principal Arterial:**

This class of highways is devoted primarily to the task of moving large volumes of traffic and performs little or no land service function. It is generally characterized by some degree of access control. Normally, this classification is reserved for multi-lane, divided roads with few, if any, at-grade intersections.

b. **Minor Arterial:**

This class of highways brings traffic to and from the expressway and serves major movements of traffic within or through the areas not served by expressways. They serve primarily to move traffic, but also perform a secondary function of land service.

c. **Urban/Major Collector:**

This class of highways serves a middling function within the highway network. These roads serve both traffic movement and land service. Major collectors receive traffic from lesser streets as well as provide interconnection and support to minor arterials.

d. **Minor Collector:**

This class of roads serves the internal traffic movement within municipalities and connects developed areas with the arterial system. They do not accommodate long, through trips and are not continuous for any appreciable length. The collector system is intended to simultaneously supply abutting property with the same degree of land service as a minor street and accommodate local internal traffic movement.

e. **Local:**

The sole function of the local street is to provide access to immediately adjacent land.

i. **Cul-De-Sac:**

A street intersecting another street at one end and permanently terminating at the other in a vehicular turn-around.

ii. **Marginal Access Street:**

A street parallel and adjacent to major traffic streets, providing access to abutting properties and control of intersections with major traffic streets.

Subdivider

Any person who undertakes the subdivision of land as defined herein. The subdivider may be the landowner or the authorized agent of the landowner to be subdivided.

Subdivision

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

The change of a lot line between two (2) abutting existing parcels not intended to create a new parcel and where such lot line change is in full compliance with this ordinance, any local zoning ordinance, any local zoning ordinance and related ordinances, rules and regulations of Harborcreek Township. A replot which involves the creation of new lots or involves more than two (2) lots shall be treated as a subdivision.

Substantially Completed

Where, in the judgement of the municipal engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to the MPC) 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. (MPC definition)

Major Subdivision

A subdivision containing eight lots or more requiring the submission of preliminary and final subdivision plans by the subdivider for approval by the Supervisors. This includes subdivisions of any size or number of lots involving new, or extensions of streets, roads, and/or the necessary rights-of way and/or the installation of public water and/or sewer systems or extensions thereof.

Minor Subdivision

A subdivision containing less than eight lots served by an existing public street wherein the Supervisors may waive the requirements of submitting a preliminary plan provided the final plan meets all the requirements of this Ordinance.

Supervisors

The Board of Supervisors of the Township.

Township

The Township of Harborcreek, Erie County, Pennsylvania.

Traffic Control Systems

The equipment necessary to control or direct the flow of traffic in conjunction with a land development. The equipment shall include, but not be limited to, a traffic light, signal control, boxes or panels, remove sensors embedded in pavement or otherwise mounted, the wiring necessary to connect the

elements of the traffic control system, and any emergency traffic control apparatus, used for overriding the cycle of the traffic flow programmed.

Water Survey

An inventory of the source, quantity, yield and use of groundwater and surface-water resources within a municipality. (MPC definition)

ARTICLE III

PROCEDURES FOR SUBMISSION OF PLATS

SECTION 301 ADVISORY MEETING

- A. Prior to filing an application for approval of a preliminary plat, a subdivider may meet with the Township Planning Department to discuss the proposal. This step does not require any fee or formal application. The purpose is to afford the subdivider advice and assistance in order to save time and money, suggest professional assistance if needed, and answer any questions the subdivider may have in regard to filing applications or other items required.
- B. The subdivider shall be prepared to discuss with the Township Planning Department details of the proposed subdivision and use, and existing features of the area. This discussion will cover such items as existing covenants, land characteristics, availability of community facilities, utilities, size of development, play areas or public areas, proposed protective covenants, proposed utilities and street improvements.
- C. If desired, a sketch plan may be prepared and presented for review and discussion at the same time. Such discussion and/or sketch plan review will be considered as confidential between the subdivider and the Township Planning Department. Submission of a sketch plan shall not constitute formal filing of a plan.

SECTION 302 PLAN REVIEW FEES

A land development application shall include a fee in compliance with the schedule of fees as may be adopted from time to time by the Board of Supervisors. In addition to the application fee as set forth in the resolution of the Township Board of Supervisors, all subdivisions and land developments shall also be charged and shall pay review fees for review of submissions. Such fees may include reasonable and necessary charges by the Township's professional consultant or Engineer who will review and report thereon to the municipality. Such review fees shall also be based upon the schedule as may be adopted from time to time by the Board of Supervisors by resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the municipal engineer or consultant for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when fees are not reimbursed or otherwise imposed on applicants.

The Erie County Department of Planning shall also assess the applicant a review fee when the plan is submitted for review to the County.

SECTION 303 PRELIMINARY PLAN

A. Submissin of Preliminary Plan

- 1. The preliminary plan and all information and procedure relating there to shall in all respects be in compliance with the applicable provisions of these regulations. It is the responsibility of the subdivider to coordinate his plans pursuant to the provisions of these regulations with the respective private and public service agencies.

2. Eight (8) copies black and white prints of the preliminary plan and four (4) copies of other required material shall accompany a written application to the Supervisors. (See Article IV for preliminary plan specifications.)
3. A preliminary plan shall be submitted to the Supervisors for approval at least twenty (20) days prior to the commission meeting at which it is to be considered. The Township shall review the plan for completeness prior to sending the plan to the commission.
4. The Supervisors shall notify, by regular mail, the owner of all parcels of land adjacent to the proposed subdivision with contiguous lot lines, of meeting to consider said subdivision.
5. The commission shall review the preliminary plan for conformity with this Ordinance, the Harborcreek Township Zoning Ordinance, and the Harborcreek Township Comprehensive Plan, shall discuss the plan with the subdivider or his agent, and with the public, and shall confer with the planning agency of adjoining municipalities so as to insure continuity of street systems.

B. Preliminary Plan Procedures

1. The Township Planning Department will discuss the preliminary plan with the subdivider or his agent and will refer the plan to the Erie County Department of Planning and the Erie County Department of Health. The Erie County Department of Planning will be given from the date of receipt of a complete application by the County thirty (30) days to review and report to the Township. A Sewage Facilities Planning Module will be obtained by the Township Planning Department from the County Department of Health on the suitability of the land for subdivision in relation to public health standards. Any fees for such County reviews will be paid by the applicant to the County agencies. In cases where the subdivision fronts on an existing or proposed State Highway or has proposed streets entering on such highways, the subdivider shall submit the plans to the PA Department of Transportation for review.
2. The Township Planning Department will review the plan to determine if it meets the standards as set forth in these regulations. The Township Planning Department may also discuss the plan with appropriate officials.
3. Any modifications of the preliminary plan required by the Supervisors as prerequisites to approval shall be noted on four (4) copies of the preliminary plan.
4. Approval of the preliminary plan shall constitute approval of the subdivision as to the character and intensity of development, the arrangement and approximate dimensions of streets, lots and other planned features, but shall not authorize sale of lots or construction of buildings.

SECTION 304 FINAL PLAN

A. Submission of Final Plan

1. After the subdivider has received official notification that the preliminary plan has been approved and what changes, if any, must be made if the plan is to proceed to consideration as a final plan, the subdivider has five (5) years in which to submit a final plan. If the subdivider does not do so within a five (5) year period, the approval of the preliminary plan shall become null and void, unless an extension of time is requested by the subdivider in writing and is granted in writing by the Supervisors before the expiration date.
2. It is not necessary for the whole plan that received preliminary approval to be submitted as a final plan. The final plan may be submitted in sections, each covering a portion of the entire proposed subdivision shown on the preliminary plan.
3. When the Supervisors grant an extension of time for the submission of a final plan, the Supervisors shall do one of two things when the final plan is submitted: make a finding that the conditions on which its approval of the preliminary plan was based have not changed substantially; or require changes in the plan, prior to final approval, that will reflect any substantial changes on the site of the subdivision or in its surrounding, that have taken place since the grant of preliminary approval.
4. Four (4) black and white prints of the final subdivision plan and two (2) copies of all other required information shall be submitted by the subdivider. A copy of the final plan and a copy of other required information shall concurrently be submitted to the appropriate officials.
5. For consideration at the next regular meeting of the Commission, the final plan shall be filed with the Supervisors not less than twenty (20) calendar days in advance of such meeting date. (See Article IV for final plan specifications.)
6. No plans shall receive final plan approval by the Supervisors unless the subdivider shall have completed all such improvements and the standards required by these regulations or shall have filed financial security as described in this Article, in favor of the Township or other assurance acceptable to the Supervisors.
7. The subdivider may place a notation on the final plan to the effect that there is no offer of dedication to the public of certain designated public areas, or (in unusual circumstance) streets or alleys, in which event the title to such areas, shall remain with the owner, and the Township shall assume no responsibility for improvement or maintenance thereof, which fact shall also be noted on the final plan.

SECTION 305 APPROVAL OF PLATS

- A. All applications for approval of a plat, whether preliminary or final, shall be acted upon by the governing body within such time limits as may be fixed in the subdivision and land development ordinance but the governing body shall render its decision and communicate it to the applicant not later than ninety (90) days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed or after a final order of court remanding an application, provided that should the said next regular meeting occur more than thirty (30) days following the filing of the application or the final order of the court, the said ninety (90) day period shall be measured from the 30th day following the day the application has been filed.
1. The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than the fifteen (15) days following the decision.
 2. When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.
 3. Failure of the governing body or planning agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.
 4. Changes in the ordinance shall affect plats as follows:
 - a. From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the 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 shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.
 - b. When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no subsequent change or amendment in the 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 (5) years from such approval. The five (5) year period shall be extended for the duration of any litigation, including appeals, which prevent the commencement of completion of the development, and for the duration of any sewer or utility moratorium or prohibition which was imposed subsequent to the filing of an application for preliminary approval of a plat. In the event of an appeal filed by any party from the approval or disapproval of a plat, the five (5) year period shall be extended by the total time from the date the appeal was filed until a final order in such matter has been entered and all appeals have been concluded and any period for filing appeals or requests for reconsideration have expired. Provided, however, no extension shall be based upon any water or sewer moratorium which was in effect as of the date of the filing of a preliminary application.

- c. Where final approval is preceded by preliminary approval, the aforesaid five (5) year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.
- d. Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five (5) year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot building, street or utility location.
- e. In case of a preliminary plat calling for the installation of improvements beyond the five (5) year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.
- f. 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 lots/dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvement depicted upon the final plat within five (5) years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within

said five (5) year period the aforesaid protections shall apply for any additional term or terms of three (3) years from the date of final plat approval for each section.

- g. Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.
5. Before acting on any subdivision plat, the governing body may hold a public hearing thereon after public notice.
 6. No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law," before driveway access to a State highway is permitted. The Department shall, within sixty (60) days of the date of receipt of an application for a highway occupancy permit,
 - a. approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations,
 - b. deny the permit,
 - c. return the application for additional information or correction to conform with Department regulations, or
 - d. determine that no permit is required in which case the Department shall notify the municipality and the applicant in writing. If the Department shall fail to take any action within the sixty (60) day period, the permit will be deemed to be issued. The plat shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit. Neither the Department nor any municipality to which permit-issuing authority has been delegated under Section 420 of the "State Highway Law" shall be liable in damage for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department.
 - e. In no case however, shall a subdivision or land development be approved until a State Highway Occupancy permit is received by the Township, or deemed approved per subsection d. above.

**SECTION 306 COMPLETION OF IMPROVEMENTS OR GUARANTEE THEREOF PREREQUISITE TO
FINAL PLAT APPROVAL**

- A. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the subdivision and land development ordinance and any walkways, sidewalks, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by the subdivision and land development ordinance have been installed in accordance with such ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to this section, the subdivision and land development ordinance shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, sidewalks, roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to the Pennsylvania Department of Transportation in connection with the issuance of a highway occupancy permit pursuant to Section 420 of the Act of June 1, 1945 (P.L.1242, No. 428), known as the "State Highway Law."
- B. When requested by the developer, in order to facilitate financing, the governing body shall furnish the developer with a signed copy of an official notification indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within ninety (90) days unless a written extension is granted by the governing body; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.
- C. Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.
- D. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct business within the Commonwealth.
- E. Such bond, or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action or approval of accompanying agreement for completion of the improvements.
- F. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of ninety (90) days following the date scheduled

for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

- G. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in the Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.
- H. If the party posting the financial security requires more than one (1) year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one (1) year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one (1) year period by using the above bidding procedure.
- I. In the case where development is projected over a period of years, the governing body or the planning Agency may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.
- J. As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such request shall be in writing addressed to the governing body, and the governing body shall have forty-five (45) days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the governing body that such portion of the work upon the improvement has been completed in accordance with the approved plat. Upon such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvement completed or, if the governing body fails to act within said forty-five (45) day period, the governing body shall be deemed to have approved the release of funds as requested.

The governing body may, prior to final release at the time of completion and certification by the municipal engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

- K. Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body shall require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term of eighteen (18) months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.
- L. 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 municipality, financial security to assure proper 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 with the financial security as otherwise required by this section.
- M. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approval plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

SECTION 307 RELEASE FROM IMPROVEMENT BOND

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the municipal governing body, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The municipal governing body shall, within ten (10) days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall, thereupon, file a report, in writing, with the municipal governing body, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the municipal engineer of the aforesaid authorization from the governing body; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvement, or any portion thereof, shall not be approved or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

- B. The municipal governing body shall notify the developer, within fifteen (15) days of receipt of the engineer's report, in writing by certified or registered mail for the action of said municipal governing body with relation thereto.
- C. If the municipal governing body or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
- D. If any portion of the said improvements shall not be approved or shall be rejected by the municipal governing body, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- E. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the municipal governing body or the municipal engineer.
- F. Where herein reference is made to the municipal engineer, he shall be a duly registered professional engineer employed by the municipality or engaged as a consultant thereto.
- G. The municipality does prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.
 - 1. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within ten (10) days of the date of billing, notify the municipality that such expenses are disputed as unreasonable or unnecessary, in which case the municipality shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.
 - 2. If, within twenty (20) days from the date of billing, the municipality and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and municipality shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.
 - 3. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within fifty (50) days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

4. In the event that the municipality and applicant cannot agree upon the professional engineer to be appointed within twenty (20) days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the municipal engineer nor any professional engineer who has been retained by, or performed services for, the municipality or the applicant within the preceding five (5) years. The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the municipality shall pay the fee of the professional engineer, but otherwise the municipality and the applicant shall each pay one-half ($\frac{1}{2}$) of the fee of the appointed professional engineer.

SECTION 308 REMEDIES TO EFFECT COMPLETION OF IMPROVEMENTS

- A. In the event that any improvements which may be required have not been installed as provided in the subdivision and land development ordinance or in accord with the approved final plat, the governing body of the municipality is 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 governing body of the municipality may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the monies necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the 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.

ARTICLE IV

SPECIFICATIONS FOR PLANS AND PLATS

SECTION 401 PRELIMINARY PLAN

- A. The subdivider shall supply eight (8) copies of the preliminary plan and two (2) copies of other required material along with a written application and fee to the Supervisors. The copies of the preliminary plan shall be black and white prints. The sheet size shall be eighteen inches (18") by twenty-four inches (24") or twenty-four inches (24") by thirty-six inches (36") in size, with the signatures in dense black ink., preferably black India ink.
- B. The preliminary plan shall generally be at a scale of fifty (50) or one-hundred (100) feet to the inch and shall show:
1. Proposed name of subdivision.
 2. Name and address of the owner of the tract or of his authorized agent, if any, and of the subdivider.
 3. Date, north point, graphic scale and grading plan.
 4. Total acreage of the tract and number of lots.
 5. Street patterns, showing the names (which, when not extension of existing streets, shall not duplicate other names of streets in the county) and widths of rights-of-way of streets, and widths of easements for alleys and approximate grades of streets. All new street names shall be approved by the U.S. Post Office in Erie County, however, it is recommended that a name not exceed twelve characters in length.
 6. Layout of lots, showing dimensions and numbers.
 7. Building setback or front yard lines.
 8. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public, or community purposes.
 9. Where the preliminary plan submitted covers only a part of the subdivider's entire holdings, a sketch of the prospective future street system of the unsubmitted part shall be furnished; the street system of the submitted part will be considered in the light of adjustments and connections with future streets in the part not submitted.
- C. Four (4) copies of a site map shall be included as part of the preliminary plan shall generally be at a scale of fifty (50) or one hundred (100) feet to the inch and shall show:
1. Contours at vertical intervals of two (2) feet for land with average natural slope of four percent

(4%) or less, and at vertical intervals of five feet for more steeply sloping land and location of benchmark and datum used. The Township Engineer may relieve the subdivider of this requirement if, on application by him, setting forth his reasons, the Engineer is of the opinion that contours are not necessary in order to administer these regulations properly in connection with the subdivision. In making such application, the subdivider shall withhold submission of his preliminary plat until the Supervisors have taken action on the application.

2. Tract boundary lines showing dimensions, bearing, and corners.
 3. Terrain features, wooded areas, buildings, and other natural or artificial features which would affect the plan of the subdivision. The Township encourages the saving of significant historical trees in the required buffer areas where possible.
 4. Streets and rights-of way on or adjoining the site, including dedicated width roadway widths, approximate gradients, types and widths of pavements, curbs, sidewalks, PennDOT highway occupancy permits and traffic impact studies and other pertinent data.
 5. Easements; locations, widths and purposes.
 6. Utilities: including sanitary and storm sewers, other drainage facilities; water lines including hydrant location approval by the servicing Fire Departments water availability from the Erie City Water Authority or if not utilizing public facilities conduct a water survey; gas mains; electric utilities; street lights and other facilities. Size or capacity of each should be shown and the location or distance to such existing utility indicated.
 7. Existing plotting of adjacent land within five-hundred (500) feet of the proposed subdivision and other conditions on the adjacent land including: approximate direction and gradient of ground slope, including embankments or retaining walls; character and location of buildings, railroads, power lines, gas lines, towers, and other nearby land uses or adverse influences; and owners of adjacent land.
 8. Areas subject to periodic overflow of flood or storm waters and wetlands.
 9. Other features of conditions which would affect the subdivision favorably or adversely.
- D. Other required material to accompany the preliminary plan shall be the following:
1. A key map, for the purpose of locating the site to be subdivided at a minimum scale of two-thousand (2,000) feet to the inch, showing the relation of the tract to adjoining property and to all streets, roads and municipal boundaries existing within one-thousand (1,000) feet of any part of the property proposed to be subdivided.
 2. Tentative cross-section and centerline profiles for each proposed street shown on the preliminary plan.
 3. Results and locations of soil suitability tests and percolation tests where required in

accordance with the Pennsylvania Sewage Facilities Act 537 will be provided in the form of on-lot sewage disposal permits or documents certifying the suitability of the soils for on-lot sewage disposal systems and their location. Such documentation to be certified by the local Sewage Enforcement Officer. Those lots which are not suitable for on-lot sewage disposal systems must be indicated on the original and all copies of the preliminary plan.

4. Preliminary designs of any bridges or culverts which may be required.
5. Any changes that may be proposed in the provisions of the Township Zoning Ordinance applicable to the area to be subdivided, and suggested locations of buildings in connection therewith.
6. A draft of the protecting covenants to be incorporated in the subdivision plat, if any.
7. Profiles and other explanatory data concerning the installation of sanitary and storm sewage systems and water distribution system.
8. Zoning of tract and adjacent properties.
9. Other information may be requested by the Supervisors at the time of preliminary plan submission when certain known conditions exist at the land to be subdivided such as low lands, poor drainage, or certain unique physical considerations.
10. The subdivider or his engineer will submit all hydrologic or hydraulic calculations as may be required by the Township Engineer to adequately review and analyze stormwater facilities requirements for the proposed subdivision; and comply with the Harborcreek Township Stormwater Management Ordinance.

SECTION 402 FINAL PLAN

- A. The final plans along with a written application and fee, which are to be submitted to the Supervisors for approval and subsequent recording shall be drawn in India ink on a transparent reproducible on stable plastic base film. The final plans shall be at a scale either fifty (50) or one hundred (100) feet to the inch. The sheet size shall be either eighteen (18") by twenty-four (24") or twenty-four (24") by thirty-six (36") inches in size for approval purposes. If the final plans are drawn in two (2) or more sections, it shall be accompanied by a key map showing the location of the several sections. However, reduction in print size to eighteen (18") by twenty-four (24") inches will be necessary for recording purposes.
- B. The final plan shall show:
 1. Name of the subdivision.
 2. Name and address of the owner and subdivider.

3. North point, graphic scale and date.
4. Block and lot numbers (in consecutive order), dimensions, minimum area and total number of lots; acreage of entire development; density and use of land.
5. Source of title to the land of the subdivision and to all adjoining lots as shown by the books of the County Recorder of Deeds.
6. A location map of the subdivision at a minimum scale of two-thousand (2,000) feet to the inch, showing the relation of the property to adjoining property and to all streets, roads, and municipal boundaries existing within one-thousand (1,000) feet of any part of the property proposed to be subdivided.
7. Lot lines with accurate bearings and distances. Distances to be to the nearest hundredth (100th) of a foot.
8. Pedestrian ways, including sidewalks, bikeways, etc.
9. Accurate dimensions of existing public land and of any property to be dedicated or reserved for public, semi-public, or community use.
10. All areas to which title is reserved by owner.
11. Accurate distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plan.
12. All lots which are not suitable for on-lot sewage disposal in accordance with the Pennsylvania Sewage Facilities Act 537 and will not be served by public sewer system must be labeled as not suitable for on-lot sewage disposal system.
13. Complete curve data for all curves included in the plan, including radius, delta angle, tangent, arc chord.
14. Street lines with accurate dimensions in feet and hundredths of feet, with bearings of such street lines.
15. Street names.
16. Location, material and size of all monuments and lot markers.
17. Easements for utilities and any limitations on such easements.

18. Setback lines not less than the minimum, as fixed by the Township Zoning Ordinance, or any setback lines established by these regulations, or by public authority, or those specified in the deed restrictions, whichever are greater.
 19. Grading plan.
 20. Pavement design.
 21. Construction sequencing plan.
 22. The following certificates, shall be shown on the plan:
 - a. Certification by registered land surveyor in accordance with the professional engineer's registration law Act 367 to the effect that the survey and plan are correct.
 - b. Certification by a registered professional engineer certifying to the correctness of the proposed improvements and facilities.
 - c. Certification for approval by the Supervisors.
 - d. Certification for the review by the Erie County Department of Planning.
 - e. A statement duly acknowledged before an officer to take acknowledgment of deeds and signed by the owner or owners of the property, to the effect that the subdivision shown on the final plan is the act and deed of the owner, that he (subdivider) is the owner of the property shown on the survey and plan, and that he desires the same to be recorded as such.
- C. The final plan and four (4) copies shall be accompanied by the following material:
1. Four (4) copies of the final profiles, cross-sections, and specifications for street improvements, and sanitary and storm sewage, and water distribution systems shall be shown on one or more separate sheets.
 2. Two (2) copies of the restrictions of all types which will run with the land and become covenants in the deeds of lots.
 3. Certificate of dedication of streets and other public property.
 4. Such certificates of approval by proper authorities of the State as may have been required by the Supervisors, including certificates approving the water supply system and sanitary sewer system of the subdivision.

5. One of the following for guaranteeing improvements:
 - a. Certificate that all improvements required by this and all other ordinances and resolutions have been installed.
 - b. Financial security, as set forth in Article III.
6. The final plan sheet shall be either eighteen (18") by twenty-four (24") or twenty-four (24") by thirty-six (36") inches in size.
7. Letter concerning zoning, if required.
8. Financial Security to provide an eighteen (18) month guarantee of all improvements made within the right-of-way and Township easements.
9. Letter from engineer or surveyor that all monuments are in place or cash deposit in lieu thereof; as set forth in Article VI.
10. Where U.S. Geological Survey monumentation is within 2,000 feet of the proposed subdivision, such monumentation and the Pennsylvania Grid Coordinates shall be shown and tied by bearing and distance to the subdivision plan. Such ties should be made by actual field measurement.

SECTION 403 MINOR SUBDIVISION PROCEDURES

- A. The Supervisors may waive the requirements to submit a preliminary subdivision plan for a subdivision containing less than eight (8) lots and served by an existing public street, provided the final subdivision plan meets all the requirements of these regulations.
- B. The minor subdivision procedures shall be as follows:
 1. The subdivider or his/her agent must prepare a plan as outlined in the final plan requirements, as set forth in Article IV.
 2. A minor subdivision cannot involve new or new extensions of public sewer systems. If existing public sewer systems are not available, the subdivider or his agent must provide a permit for on-lot sewage disposal for each individual lot to be subdivided or documentation by the local sewage enforcement officer that each individual lot is suitable for on-lot sewage disposal system in accordance with the requirements of the Pennsylvania Sewage Facilities Act 537. Those lots not suitable for on-lot sewage disposal must be shown on the plan as "not suitable for on-lot sewage disposal."
- C. If it is determined by the subdivider and his engineer and attorney that all requirements of the Harborcreek Township Subdivision Regulations can be met without waiver, the attorney may then prepare the deed for filing upon approval by the Supervisors.

- D. The Supervisors shall review the plan for compliance with plan requirement. Any corrections necessary shall be made by the surveyor or engineer prior to plan approval.

SECTION 404 LAND DEVELOPMENTS

A. Procedure

All land development as defined herein is subject to the provisions of this Ordinance. Land Development Plans shall be submitted pursuant to the requirement of Article III subject to the specifications of plans in Article IV, the development standards, where applicable, of Article V and subject to the required improvements of Article VI. References in such articles to subdivision plans shall be construed to refer to and shall include land development plans

B. Plans - Design Standards and Inclusions in Addition to Requirements Pursuant to Article IV.

In addition to the requirements for Preliminary and Final Plans set forth in Article IV, the following shall be incorporated into any land development plan for consideration by the Township:

1. Existing conditions (e.g. Existing Conditions Plan) to include topography (at two (2) foot contour intervals), drainage, tree clusters, buildings, utilities, roads, wetlands, and nearby properties. A wetlands delineation report or certification from a qualified consultant must be provided by the developer.
2. Off site conditions which are intended to show the land development in relationship to surrounding properties, land uses and facilities. Information will include land within one-hundred (100) feet of the proposed development and will include topographic contours, building location, ownership, land use, vehicular facilities and circulation as well as related information.
3. Proposed developments, including buildings (with frontal elevation and footprints), parking vehicular and pedestrian access areas, storm drainage, landscaping, lighting plan, utility location and size. This drawing will be to scale, in conformity with Article IV requirements for Preliminary and Final Plans, with dimensions shown.
4. Property information with a boundary survey completed by a professional engineer or surveyor.
5. Vehicular access connections to the surrounding existing street network shall be safe, shall have adequate site distances, and shall have the capacity to handle the projected traffic. The developer shall contact and communicate with adjacent property owners when applicable in the attempt to minimize points of access onto streets and highways by implementing shared access points.
6. Service areas for the land development shall be planned and constructed such that they are not visible from adjacent uses.

7. The plan shall show building locations and areas for vehicular circulation
8. A traffic, parking and pedestrian plan and accompanying plan narrative shall be submitted along with estimated traffic flows. A traffic impact analysis may be required by Harborcreek Township when peak hour traffic increased by 20 or more vehicles per hour or average daily traffic increased by 250 or more vehicles per day or total traffic volume increased by 10 percent or more of average daily traffic. The developer shall demonstrate that the proposed parking/access layout is adequate for the proposed development and is in conformance with the Township Zoning Ordinance. In reviewing the parking/ access plan, the Township shall use, for reference, standard site planning books and guides such as published by the American Planning Association or the Institute for Traffic Engineers.
9. A complete landscaping plan shall be submitted that includes a complete interior landscape plan in addition to a landscaped transition to adjoining properties. Landscape treatment shall be provided to enhance architectural features strengthen vistas and important axis, or provide shade. In reviewing the landscaping plan, the Township shall use, for reference, standard site planning books and guides such as published by the American Planning Association.
10. A complete interior pedestrian circulation plan and accompanying plan narrative shall be submitted by developers indicating the safe and efficient movement of people within and through the site. Sidewalks shall be required per the Harborcreek Township Sidewalk District Plan established by resolution of the Board of Supervisors.
11. Adequate lights shall be provided to illuminate streets, driveways, walkways, and parking lots for the safe movement of vehicles and pedestrians at night. Exterior lighting shall be of a design and size compatible with adjacent areas and in accordance with the standards of the Illuminating Engineering Society of America. At a minimum, street lights shall be located at all intersections, at all horizontal curves of 145 degrees or less, all vertical curves in excess of twelve (12) percent, where necessary to provide for safe pedestrian travel, and at all other locations deemed by the Township Engineer to be necessary for the health and safety of the general public and designed to the standards of the Illuminating Engineering Society of America. All outside lighting shall be arranged and shielded to minimize glare or reflection on adjoining streets or residential properties. As with all utility installation, the cost of installation will be borne by the developer.
12. The Township shall be provided with information on the availability of water either by commitment from a public supply or private water company through certification by state approved hydrologist that an on-lot well supply is possible through subsurface drilling.
13. Gas, electric, cable and telephone utilities shall be located in land developments in accordance with utility company practice and be approved by the Township Engineer.

E. Assurance for Completion and Maintenance of Improvements

1. Insofar as the land development involves the lease or rental of buildings and/or space on the site and site improvements (such as drives, parking areas and storm sewer drainage devices), which are to be privately maintained or maintained by a private (non-public) organization created by the developer, there is no need for municipal acceptance of such site improvements. If the developer shall propose, and the Township may agree, that certain on site improvements should be dedicated to the Township, the provisions for this approach shall follow those as specified for subdivisions in this Ordinance. Where a developer has proposed improvements on the Site Plan that are approved by the Township, the developer shall make such improvements as indicated on the Plan. These improvements shall be completed prior to occupancy of the structure. Where the developer fails to make or satisfactorily complete such improvements, then the owner shall be considered in violation of this Ordinance and the actions for the enforcement of this Ordinance, as set forth by Article VII shall be instituted. In addition, all permits which the Township issues (building, zoning, occupancy) shall be held in abeyance until the developer successfully complies with the requirements of this Ordinance.
2. Where the developer does not intend to maintain such improvements and where a building owners' association or similar organization is not organized for these responsibilities, the developer shall submit a plan for maintenance of such facilities including keeping the facility free of graffiti. That maintenance/plan document shall be legally enforceable, one clearly establishing maintenance responsibility, and shall be as approved by the Township. The development must prepare and submit a written maintenance plan or statement that said developer shall be responsible for proper maintenance.
3. Guarantee for improvement installation and maintenance shall be in accordance with Article VI Required Improvements.

ARTICLE V

DEVELOPMENT STANDARDS

The preliminary and final plat of the subdivision shall substantially conform to the following principles and standards of design.

SECTION 501 GENERAL STANDARDS

- A. No land shall be subdivided for residential, commercial, industrial, or public use unless: adequate access to the land over streets or thoroughfares exists or will be provided by the subdivider; or if such land is considered by the Township Engineer and Supervisors to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography or any other feature harmful to the health and safety of possible residents and the community as a whole.
- B. The Supervisors shall not approve any plat unless all streets shown thereon shall be of the required width and grade, and shall be so located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of fire fighting equipment to buildings, and provide a coordinated system of streets conforming to the Township's plan of streets. In the case of subdivisions for commercial, industrial, and public purposes, no driveway giving access upon a major street shall be located closer than five-hundred (500) feet along the same side of such major street, to any other driveway, public or private street in the same or another subdivision.
- C. Any land or portion of land located within the flood hazard area as mapped by the Federal Flood Insurance Agency shall conform to the regulations promulgated under the Federal Floodplain Management Act and the Pennsylvania Stormwater Management Act.
- D. All subdivision plans will provide for compliance with the Pennsylvania Stormwater Management Act.
- E. All subdivision plans shall contain a Soil Erosion and Control Plan approved by the Soil Conservation District.

SECTION 502 STREETS

- A. Street System
 - 1. Minor streets in a new development shall be so laid out as to discourage through traffic. However, the provision for the extension and continuation of major streets into and from adjoining areas is required. Where a subdivision abuts or contains an existing or proposed major traffic street, the Supervisors may require marginal access streets, lot double frontage or such treatment as will provide protection for abutting properties, reduction in the number of intersections with the major traffic street, and separation of local and through traffic.
 - 2. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Supervisors may require a street approximately parallel to and on each side

of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate zoning districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

3. If the lots in the development are large enough for resubdivision, or if a portion of the tract is not subdivided, suitable access and street openings for such an eventuality shall be provided.
4. The use of dead-end or cul-de-sac streets is discouraged. However, in cases where it can be shown that their use is absolutely essential for an acceptable development their use may be granted. Where necessary, dead-end or cul-de-sac streets in general shall not exceed five-hundred (500) feet in length unless topography or other reasons justify a greater distance and must be provided with a paved turnaround with a minimum diameter of one-hundred (100) feet to the outside curb and of one-hundred twenty (120) feet to the legal right-of-way.
5. In general, minor and collector streets shall not empty into the same side of arterial streets at intervals of less than eight-hundred (800) feet.
6. Street jogs with centerline offsets of less than two-hundred (200) feet shall be avoided.

B. Street Alignment

1. The minimum radius at the centerline for curves on arterial streets shall be five-hundred (500) feet, for collector streets four-hundred (400) feet, and for minor streets two-hundred (200) feet.
2. Except for minor streets, there shall be a tangent of at least one-hundred (100) feet between reverse curves.
3. Proper sight distance shall be provided with respect to both horizontal and vertical alignment. Measured along the centerline, 3.75 feet above grade, this should be four-hundred (400) feet for arterials, three-hundred (300) feet for collectors and two-hundred (200) feet for minor streets.
4. Proper sight lines shall be maintained at all intersections of streets. Measured from a point at least fifteen (15) feet from the edge of the major road pavement and at a height of 3.75 feet on the minor road, a minimum clear sight distance of five-hundred fifty (550) feet for arterials and collectors and three-hundred fifty (350) feet for minor streets, measured along the centerline, shall be provided. No building or obstruction shall be permitted which would obstruct this line of sight.

C. Street Grades

1. There shall be in general a minimum grade of at least one-half percent (0.5%) on all streets; a maximum grade of five percent (5%) on major streets, and nine percent (9%) on minor streets.

2. Vertical curves shall be used in changes of grade exceeding one percent (1%) and shall be a minimum of one-hundred (100) feet in length. Intersections shall be approached on all sides by leveling areas. Where the grade exceeds seven percent (7%), such leveling areas shall have a minimum length of fifty (50) feet (measured from the intersection of the centerline), within which no grade shall exceed a maximum of four percent (4%).

D. Street Widths

1. Minimum street right-of-way and cartway widths shall be as follows:

STREET TYPE--Arterial--Right-of-way one-hundred (100) feet; Collector eighty (80) feet; Minor Marginal Cul-de-sac fifty (50) feet; Turn Around Access of Cul-de-sac one-hundred twenty (120) feet diameter.

Arterial--Cartway--forty-eight (48) feet plus twelve (12) feet median strip; Collector forty-two (42) feet; Minor Marginal Cul-de-sac twenty-eight (28) feet; Turn Around Access of Cul-de-sac one-hundred (100) feet diameter to outside curb.

2. Provision for additional street width (right-of-way) may be required by the Supervisors in specific cases for:
 - a. Public safety and convenience.
 - b. Parking in commercial and industrial areas and in areas of high density residential development.
 - c. Widening existing streets (right-of-way) where the width does not meet with requirements of preceding paragraphs.

E. Street Intersections

1. Multiple intersections involving the junction of more than two (2) streets shall be avoided whenever possible, but where they are unavoidable, such intersections shall be designed with extreme care for both vehicular and pedestrian safety and must have the recommendation and acceptance of the Township Engineer and the Supervisors.
2. Right angle intersections shall be used whenever practicable. When minor streets intersect collector or arterial streets, the angle of intersections of the street centerlines shall not be less than sixty (60) degrees.
3. Street curb intersections shall be rounded by a tangential arc with a minimum radius of twenty (20) feet for minor streets and thirty (30) feet for intersections including collector or arterial streets. Radius corners or diagonal cutoffs shall be provided on the property lines substantially concentric with, or parallel to, the chord of the curb radius corners

F. Other Requirements

1. The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.
2. When the subdivision adjoins unsubdivided acreage, new streets shall be provided through to the boundary lines of the development with temporary easements for turnarounds or, at the discretion of the Supervisor, the entire width of the right-of-way may be paved for a distance of seventy-five (75) feet from the boundary line.
3. Streets that are extensions, or obviously in alignment with, existing named streets shall bear the names of the existing streets. All street names shall be subject to the approval of the Supervisors, the Commission and the U.S. Post Office.
4. Blocks subdivided into lots shall be two lot depths in width, except along a major thoroughfare which fronts on an interior street.

SECTION 503 BLOCKS AND LOTS

A. Blocks

1. All blocks in a subdivision shall not exceed one-thousand six-hundred (1,600) feet. Where it is necessary for blocks to exceed this length, paved pedestrian way with a minimum right-of-way of twelve (12) feet may be required near the center of the block.
2. In commercial areas, the block layout shall conform, with due consideration of site conditions, to the best possible layout to serve the buying public, to permit good traffic and pedestrian circulation and the parking of cars, to make delivery and pickup efficient, and to reinforce the best design of the units in the commercial area.
3. The block layout in industrial areas shall be governed by the most efficient arrangement of space for present and future expansion, with due regard for worker and customer access and parking.

B. Lots

1. No subdivision which shall result in additional building lots shall be approved unless each parcel or lot therein abuts on a public street, as defined in Article II and has the required width at the building line as described in the Harborcreek Township Zoning Ordinance No. 84-102, except that lots which front on a cul-de-sac, in addition to having the required width at the building line as described in the Zoning Ordinance, shall also have no less than 50 foot

frontage at the right-of-way line; and said subdivision shall also meet all of the design standards in Article V and Article VI as well as other pertinent provisions of the Subdivision Regulations.

2. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots shall not be permitted unless it is clearly evident that such variation shall improve the overall neighborhood design
3. The minimum lot frontages, widths, building setback lines and areas shall be in conformity with the Harborcreek Township Zoning Ordinance.
4. Double frontage and reverse frontage lots, shall not be permitted except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
5. The depth of lots shall not be less than one (1) or more than two and one-half (2 ½) times their width. Variation to this rule is permissible where existing physical features dictate a different ratio which is aesthetically pleasing and acceptable to the supervisors under other regulations herein contained.

C. Easement and Alleys

1. Where easements are required for utilities, they shall be a minimum of twenty (20) feet wide and shall, to the fullest extent possible, be centered on or adjacent to rear or side lot lines.
2. All natural gas lines shall be installed in compliance with applicable regulations. The minimum distance from a natural gas line to a dwelling unit shall be such distance as required by the applicable transmission, or distribution company.
3. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a drainage easement conforming substantially with the line of such watercourse, drainage way, channel or stream and of such width as will be adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, improving, or protecting such drainage facilities or for the purpose of installing a storm sewer. Where, in the opinion of the Supervisors, open flow of the existing water course, drainage way, channel or stream is acceptable, the depth of the lots backing on said watercourse, drainage way, channel or stream shall be increased to provide the minimum required usable land area per lot.
4. Alleys are prohibited in developments of detached or semi-detached houses; they may be permitted in other types of residential development. In commercial or industrial districts

without off-street loading areas, alleys with a minimum width of twenty-two (22) feet shall be required. Where such alleys dead-end, they shall be provided with a paved turnaround as determined adequate by the Township Engineer and the Commission.

ARTICLE VI

REQUIRED IMPROVEMENTS

The required improvements herein described include the provision of adequate right-of-way and land reservations to support the required improvement. Such required right-of-way will conform to commonly accepted engineering practice and be acceptable to the Supervisors.

SECTION 601 MONUMENTS AND MARKERS

- A. Double monuments shall be used at monument points. The lower monument, a three-fourths inch (3/4") iron or steel bar in six inch (6") by six inch (6") concrete shall be set with the top thirty-six inches (36") below finished grade. The upper monument, a six inch (6") by six inch (6") by twenty-four inch (24") concrete shaft marked on top with a dowel, shall be set with top at finished grade. Markers shall consist of iron or steel bars at least twenty-four inches (24") long, and not less than three-fourths inch (3/4") in diameter.
- B. Monuments and markers shall be placed so that the scored or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the surface of the surrounding ground.
- C. Monuments shall be set:
 - 1. At the intersection of all lines forming angles in the boundary of the subdivision.
 - 2. At the intersection of all street lines.
- D. Markers shall be set:
 - 1. At the beginning and ending of all curves along street property lines.
 - 2. At all points where lot lines intersect curves either front or rear.
 - 3. At all angles in property lines of lots.
 - 4. At all other lot corners
- E. Other Placement Requirements:
 - 1. Any monuments or markers that are removed shall be replaced by a Pennsylvania registered surveyor at the expense of the person removing them. Prior to removal, the Supervisors must be notified of such, and the plan for replacement shall be approved by the Board of Supervisors. Where grading conditions or other circumstances prohibit the placing of lot or street monuments at the time of submission of the final plan, a cash deposit will be made with the Township in an amount to be determined, normally as follows:
 - a. \$75.00 each for concrete monuments,

- b. \$50.00 each for the first four (4) iron monuments,
 - c. \$30.00 each for iron pipe monuments over four (4).
2. Should it be apparent that due to topography or other conditions the cost of setting such monuments will be abnormal, adjustments will be made to cover each case. Should the installation of monuments not be completed within three (3) months after the completion date of the subdivision by the subdivider, the Supervisors may cause such installation to be completed and pay therefore from the cash deposits.

SECTION 602 STREETS AND ALLEYS

- A. Streets and alleys shall be graded to the full width of the right-of-way, surfaced, and improved to the grades and dimensions shown on plans, profiles, and cross-sections submitted by the subdivider and approved by the Supervisors.
- 1. Subgrade - The subgrade shall be graded and shaped to conform to the approved plans with a minimum width of the pavement plus two (2) feet. It shall be thoroughly compacted and stabilized to the satisfaction of the Township Engineer. If unacceptable material is encountered, it shall be removed and replaced with a suitable granular material as directed by the Township. Unacceptable materials are all materials with a C.B.R. (California Bearing Ratio) value of two and one-half (2.5) or less and is not of proper quality to develop the required stability and provide for adequate drainage. These are primarily soft plastic clays or silty material where the clay or silt content is over fifty percent (50%). The subgrade shall be inspected and approved by the Township prior to placement of the subbase.
 - 2. Subbase - All utilities, buried conduits, or any other structure or line shall be placed prior to the laying of the subbase. The subbase shall have minimum thickness of six inches (6") and shall conform to Pennsylvania Department of Transportation Form 408, Section 350 specifications (latest edition) for material and construction requirements. In certain areas of the Township, the soils may be of such a nature to allow the reduction in requirements for subbase. Such a reduction must be requested in writing and approved by the Supervisors before placement of the next course.
 - 3. Base - The base shall be constructed in accordance with Township and Pennsylvania Department of Transportation Specifications.
 - 4. Pavement - The pavement shall be constructed in accordance with Township and Pennsylvania Department of Transportation specifications. The base shall have been in place for a minimum of one (1) year before placement of a wearing surface.
 - 5. Concrete curbs or rolled gutters as appropriate shall be required in subdivisions and shall be constructed according to the specifications of the Pennsylvania Department of Transportation. This requirement may be waived by the Township Engineer in lieu of other approved similar facilities.

6. Sidewalks shall be required in subdivisions and land developments located in a designated sidewalk district

a) Residential sidewalk:

Sidewalks shall be a minimum of six (6) feet wide on arterial and collector streets with the exception that sidewalks located along local residential streets may be four (4) feet wide. Generally, a grass planting strip shall be provided. The sidewalks should commence at the right-of-way line and extend towards the curbline. A variance to this requirement may be provided in order to provide compatibility with existing sidewalks or if the right-of-way would dictate that the sidewalk be located an excessive distance from the street as determined by the Supervisors. The sidewalk should be constructed of Portland Cement Concrete and be at least four inches (4") thick underlain by crushed stone or run-of-bank gravel also four inches (4") thick. Where sidewalks cross driveways or other areas subject to vehicular traffic, sidewalks shall be a minimum of four and one half inches (4 ½") thick and shall be enforced with six by six by six by six inch (6X6X6X6") wire mesh. All walks shall be laid with a slope of one-fourth inch (1/4") per foot sloping toward the center of the street. The grade of the sidewalks shall follow the grade of the street, and shall be at such an elevation as to create a maximum slope from the edge of the walk to the top of the curb or the edge of the street pavement as the case may be of three-fourths inch (3/4") per foot and minimum slope for the same location of one-fourth inch (1/4") per foot. At the intersection of sidewalks, which are also at the intersection of streets, the sidewalk shall be extended to the edge of the paved street. Such extension must comply with the Guidelines and Criteria for Construction of Ramps as established by Act 56, 1976, with the Commonwealth of Pennsylvania.

The following streets are considered arterial and collector routes as designated in the Harborcreek Township Comprehensive Plan; I-90, Station Road, Buffalo Road, Shannon/Norcross Roads, Depot Road, Wales Road, Nagle Road, Walbridge Road, Iroquois Avenue, East Lake Road, Bartlett Road, Troupe Road, Boyer Road, Saltsman Road, Hannon Road, Ridge Parkway: Nagle Road to Hannon Road, Cooper Road: Shannon Road to Station Road, Reese Road, Kuhl Road, Clark Road, Davison Road, Belle Road and Moorheadville Road.

b) Non-residential sidewalks:

The property owner shall grant to Harborcreek Township a public easement, twenty-five (25) feet in width, which is parallel and adjacent to the public road right-of-way within which the property owner shall construct a sidewalk. The grade of the sidewalk shall follow the grade of the street and shall be designed and constructed to match existing sidewalks on adjacent properties. Said sidewalk shall be a minimum of six (6) feet in width and a minimum of four (4) inches thick. Across driveways and other areas subject to vehicular traffic, sidewalks shall be a minimum of six (6) inches thick and shall be reinforced with welded wire mesh or equivalent reinforcement. All sidewalks shall be constructed using Class A Cement Concrete in accordance with

the Pennsylvania Department of Transportation (PennDOT) Publication 408, latest edition. An exception to this provision may occur where the developer is proposing to utilize asphalt or concrete driveway, the measurable standards of the driveway being acceptable to the township engineer. The grade, cross-slope and all other aspects of the walkway shall meet all ADA requirements. The developer must certify that the conditions do, in fact, comply with all ADA requirements. The location of the sidewalk shall be within the public easement and required landscape area. In specific instances where the property owner is able to demonstrate to the satisfaction of Harborcreek Township that the sidewalk installation within the public easement is not feasible nor practical, the property owner may propose to construct the required sidewalk within the public road right-of-way, subject to the property owner securing the necessary permits and/or approvals from PennDOT and/or Harborcreek Township. All sidewalk designs must be submitted to Harborcreek Township for review and approval prior to construction.

- B. The developer shall not be responsible for paving the additional width of cartway for a principal or minor arterial street if designated as such a street by the Pennsylvania Department of Transportation and is not the result of the construction of his subdivision.
- C. Where unusual or peculiar conditions prevail with respect to prospective traffic and/or safety of pedestrians, the Supervisors may require different standards of improvements than those set forth in the previous paragraphs. Crosswalks may be required when deemed necessary by the Supervisors.
- D. Prior to placing the street surface, adequate subsurface drainage for the streets and all sub-surface utilities as acceptable to the Supervisors shall be provided or installed by the subdivider.
- E. In all respects in which the standards for required improvements are not set forth herein or specified by this Ordinance hereunder, the applicable standards and requirements of the Pennsylvania Department of Transportation shall govern, and all work shall be performed in the manner prescribed in the standards specifications for road construction of said department for the type of construction under consideration.
- F. Maximum slopes of banks measured perpendicular to the centerline of the street shall be 3:1 for fills and 2:1 for curbs.

SECTION 603 SEWER SYSTEMS

- A. The area having a public sewer system, which is, in the judgement of the Supervisors reasonably accessible to the subdivision or land development and available for connection thereto, the subdivision or land development shall be connected to the public sanitary sewer system.
- B. In an area not having a public system, or within an area having a public sewer system which is not

reasonably accessible to the subdivision, the subdivision shall be provided with one of the following methods of sewage disposal.

1. A complete sanitary sewer system to convey the sewage to a treatment plant, to be provided in accordance with the requirements of the Pennsylvania Department of Environmental Protection, with adequate provision for the maintenance of such plant.
 2. A private sewage disposal system on individual lots consisting of standard and alternative systems as defined and provided under the Pennsylvania Sewage Facilities Act 537. A permit will be obtained for each private sewage disposal system. Such permit is to be obtained from a local sewage enforcement officer and may waive the requirement for the subdivider to install private sewage disposal systems prior to the sale of any lot.
- C. In areas proposed for private sewage disposal systems on individual lots consisting of septic tanks and tile absorption fields, and laid out in accordance with the minimum standards approved by Erie County Department of Health and permitted by the Supervisors under conditions of this Ordinance, the subdivider may elect to provide a permit for each private sewage disposal system. Such permit is to be obtained from a local sewage enforcement officer and may waive the requirement for the subdivider to install private sewage disposal systems prior to the sale of any lot.
- D. In areas not presently served by public sewer but in which they are to be installed within reasonable time, in the opinion of the supervisors based on studies of the area, the Supervisors shall require that capped sewer mains and house connections be installed in addition to the required on-site facilities.
- E. The plans for the installation of a sanitary sewer system shall be prepared for the subdivision and approved by the engineer in charge of the applicable sewage system to which it will be connected, the Erie County Department of Health and the Pennsylvania Department of Environmental Protection. The engineer of the sewage system shall inspect the sewer line before it is covered over. Upon completion of the sanitary sewer installation one copy of each of the plans for such system as built shall be filed with Supervisors and the Erie County Department of Health.
- F. The minimum diameter of any sewer pipe main shall be eight inches (8") and any lateral four inches (4"). Storm sewers shall not be connected with sanitary sewers.

SECTION 604 WATER SYSTEMS

- A. The subdivider shall install a complete water supply system for the subdivision which shall be connected to a municipal water supply, which is, in the judgement of the Supervisors reasonably accessible to or with a community water system approved by the engineer of the applicable water utility company, the Erie County Department of Health, the Pennsylvania Department of Environmental Protection, and the Township Engineer with satisfactory provision for the maintenance thereof.

- B. In areas where individual water supply systems on individual lots are to be provided, the subdivider may elect to submit adequate documentation to the Supervisors to clearly demonstrate the availability of adequate quantity and quality of subsurface water to serve each individual lot or parcel within the subdivision in lieu of installing an individual water supply for each lot. Such documentation shall be acceptable to the Township Engineer and shall in no way be construed to render the Township liable for the guarantee of water supply where such documentation has been accepted by the Township.
- C. The plans for the installation of the mains of a water supply system shall be prepared for the subdivision with the cooperation of the applicable water utility company and approved by its engineer. Upon the completion of the water supply system, one (1) copy of each of the plans for such system as built shall be filed with the Supervisors, the Erie County Department of Health, and the municipality.

SECTION 605 OFF-STREET PARKING

- A. Each proposed dwelling unit in a subdivision shall be provided with off-street parking space. Such off-street parking space may be provided as an individual garage, carport, driveway, or in a parking compound adjacent to or near the dwelling units it serves. Driveways and parking compounds shall provide one usable parking space for each dwelling unit.
- B. Commercial developments within the scope of these regulations shall provide not less than the minimum paved area required within the Harborcreek Township Zoning Ordinance.

SECTION 606 STORM DRAINAGE

- A. Storm sewers, culverts, and related installations shall be provided: to permit the unimpeded flow of natural water courses; to ensure the drainage of all low points along the line of streets; to intercept stormwater run-off along street at intervals reasonable related to the extent and grade of the area drained.
- B. The direct discharge of surface or subsurface water, such as roof or basement drains, onto the street cartway will not be permitted.
- C. The subdivider's engineer will prepare all hydrological and hydraulic calculations as may be required by the Township Engineer to adequately review and analyze stormwater requirements; and shall comply with the Harborcreek Township Stormwater Management Ordinance.

SECTION 607 STREET SIGNS

Street name signs shall be placed at all intersections. Their design shall be approved by the Supervisors.

SECTION 608 FILING PLANS AND PROFILES

Upon completion, plans and profiles of the improvements in a subdivision as constructed shall be filed with the Township.

SECTION 609 LIGHTING

- A. Street lights shall be required in all major subdivisions. The erection and maintenance of such lighting shall be governed by regulations as provided in the Second Class Township Code.
- B. Upon receipt of the preliminary plan, the Township shall request that the appropriate electric utility company provide assistance in determining the adequate level of illumination. The design and layout of adequate street lighting shall be in accordance with accepted engineering standards and shall be approved by the Township. The subdivider shall show the approved street lighting on the subdivision final plan.
- C. The Township shall request that the electric utility company install the street lights in accordance with the approved plans. The Township shall make said request within one (1) year of the final plan approval.
- D. The subdivider will be required to bond the required street lighting improvements in accordance with the Township Subdivision Regulations. Upon completion of the street lighting installation, the Township will require the subdivider to reimburse the Township for the operational costs of said street lighting in accordance with the developer's agreement.
- E. The subdivider shall be responsible for the payment of all street lighting costs until such time that the subdivision is dedicated to and accepted by the Township, at which time the Township will impose assessments against the appropriate properties in accordance with Township policy.

SECTION 610 GREENSPACE PROVISIONS

A. Intent and Purpose

This Article is intended to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way

The Township recognizes that landscaping can be a significant expense. At the same time, landscaping improves the livability of residential neighborhoods, enhances the appearance and customer attraction of commercial areas, increases property values, improves the compatibility of adjacent uses, screens undesirable views, contributes to the image and appeal of the overall community, and can reduce air and noise pollution. The intent of the regulations contained herein is to achieve a reasonable balance between the right to develop and maintain property and the right of Township residents to live, work, shop, and recreate in pleasant and attractive surroundings.

The purpose of this Article is to provide minimal standards for the provision of green space within certain Township developments. Other provisions within this Ordinance which are more restrictive or are inconsistent with the provisions of this Article shall prevail.

B. Objectives

Landscaping shall be used to enhance the streetscapes along the Township's public rights-of-way with an emphasis on trees to define and separate vehicular and pedestrian traffic areas, screen and enhance the appearance of parking areas from the public right-of-way and adjacent properties, mitigate the visual harshness and summer heat gain within parking areas, screen objectionable and higher intensity uses from lower intensity uses, and enhance the appearance of structures.

1. Landscaping, Planting Strip, Walkways and Screening Requirements

Planting Strip Requirements for Commercial, Industrial and Non-Residential Uses

- a) Landscaping along streets. A minimum twenty five (25) foot wide applied landscaping strip abutting all rights of way broken only by points of vehicular or pedestrian access shall be provided with a minimum of one (1) deciduous tree having a caliper of not less than two (2) inches balled, burlapped, and properly staked per forty (40) lineal feet of frontage. Trees shall be of the species and size to achieve a softening effect. The locations of the plantings along the streets can be varied pursuant to the development plan if approved by the Board of Supervisors provided that the total number of plantings required is not reduced. Wherever possible, entrance plantings are encouraged which include but are not limited to trees, woody shrubs, perennials, and annuals.
- b) Landscaping around site perimeter when abutting another non-residential use. A minimum ten (10) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along street, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped, and properly staked. Trees shall be of the species and size to achieve a softening effect. Where mature existing vegetation occurs along the perimeter and no development is proposed within fifty (50) feet of the lot line, a fifteen (15) foot wide preservation strip may be substituted.
- c) Landscaping around site perimeter when abutting a residential district. A minimum fifty (50) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along streets, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped, and properly staked. Trees shall be of the species and size to achieve a complete visual screen within 3 years. Landscape creativity is encouraged and an alternative proposal that achieves a complete visual screen can

be submitted for approval to the Board of Supervisors. Where mature existing vegetation occurs along the perimeter and no development is proposed within fifty (50) feet of the lot line, a twenty-five (25) foot wide preservation strip may be substituted.

- d) Landscaping around site perimeter when abutting a nonconforming residential use. A minimum twenty-five (25) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along streets, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped and properly staked. Trees shall be of the species and size to achieve a complete visual screen within 3 years. Landscape creativity is encouraged and an alternative proposal that achieves a complete visual screen can be submitted for approval to the Board of Supervisors. Where mature existing vegetation occurs along the perimeter and no development is proposed within fifty (50) feet of the lot line, a twenty-five (25) wide preservation strip may be substituted. Securing a written agreement with the effected adjoining property owner may reduce this landscaping strip, however in no case shall the strip be less than ten (10) feet wide.

2. **Planting Strip Requirements for Residential Cluster Developments**

For purposes of this subsection, a residential cluster development shall be defined as multi-family dwellings.

- a) Landscaping along streets. A minimum twenty five (25) foot wide applied landscaping strip abutting all rights of way broken only by points of vehicular or pedestrian access shall be provided with a minimum of one (1) deciduous tree having a caliper of not less than two (2) inches balled, burlapped, and properly staked per forty (40) lineal feet of frontage. Trees shall be of the species and size to achieve a softening effect. The locations of the plantings along the streets can be varied pursuant to the development plan if approved by the Board of Supervisors provided that the total number of plantings required is not reduced. Wherever possible, entrance plantings are encouraged which include but are not limited to trees, woody shrubs, perennials, and annuals.
- b) Landscaping around site perimeter when abutting another non-residential district. A minimum ten (10) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along street, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped, and properly staked. Trees shall be of the species and size to achieve a softening effect.

- c) Landscaping around site perimeter when abutting a residential district or use. A minimum fifty (50) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along streets, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped, and properly staked. Trees shall be of the species and size to achieve a complete visual screen within 3 years.
- d) Landscaping around site perimeter when abutting a nonconforming residential use. A minimum twenty-five (25) foot wide perimeter landscaping strip shall be provided around the perimeter of the site, except along streets, with one (1) deciduous tree having a caliper of not less than two (2) inches per thirty (30) lineal feet of perimeter or evergreen trees having a height of not less than six (6) feet spaced on twelve (12) foot centers. Trees shall be balled, burlapped and properly staked. Trees shall be of the species and size to achieve a complete visual screen within 3 years.
- e) Landscape creativity is encouraged and an alternative proposal that achieves a complete, or nearly complete, visual screen can be submitted for approval to the Board of Supervisors. Where mature existing vegetation occurs along the perimeter and no development is proposed within fifty (50) feet of the lot line, a twenty-five (25) foot wide preservation strip may be substituted.

3. **Interior parking lot landscaping and walkways.** The following landscaping requirements shall be met in all parking lots that accommodate twelve (12) or more parking spaces:

- a. A minimum of one (1) deciduous tree having a caliper of not less than two (2) inches balled, burlapped, and staked shall be planted per island. There shall be one tree for every forty (40) lineal feet of island. The deciduous trees shall have a clear trunk at least six (6) feet above the finished grade to allow vehicular circulation and visibility beneath the canopy. Tree species shall be selected to be tolerant of normal parking lot conditions. Wherever possible, entrance plantings are encouraged.
- d. The planting island shall be a minimum of nine (9) feet in width.
- e. An end or cap-planting island shall be required between rows of parking spaces and service lanes. The end or cap-planting islands shall meet the minimum requirements for planting islands identified above.
- f. A minimum of fifteen percent (15%) of the parking lot surface area is required to be pervious within the interior of the parking lot.

4. **Screening of loading areas,** outside storage areas and other service areas. Screening and landscaping shall prevent direct views of loading area, storage areas outside an enclosed building, service areas, and

associated service driveways from adjacent properties or from the public or private right-of-way when viewed from ground level. Screening shall consist of opaque walls, which are architecturally compatible with the principal building on the lot, or evergreen planting. Evergreen plantings shall be of the species and size to achieve a complete visual screen within three (3) years.

5. It is recommended that all trees shall be planted in conformance with the standards recommended by the American Association of Nurseryman, Inc. in the American Standard of Nursery Stock, ANSI Z60.1, current edition as amended. All plantings should be performed by good nursery and landscape practice. Dead or dying trees or shrubs shall be replaced not later than the subsequent planting season.
6. Existing vegetation that is suitable for use within the required landscaping plan shall be preserved and utilized to the maximum extent possible.
7. Walkways. In parking lots over twelve (12) parking spaces, separate pedestrian walkways shall be provided to allow safe movement within lots. Such walkways shall provide safe access from buildings to parking lots, adjacent properties and sidewalks. These walkways shall be generally oriented parallel to and between parking bays. The following guidelines apply to the development of walkways:

One walkway can serve as a collector for up to four (4) parking bays of parked cars.

Walkways shall be constructed in accordance with the standards of Article VI of this Ordinance and shall have a minimum width of five (5) feet.

Walkways shall be integrated with existing sidewalks and pedestrian ways.

C. Compliance

1. All applications for building permits for any construction or development to which the provisions of this Article apply shall include a plan showing the proposed design and location of any planting strip, landscape screen and/or interior parking lot landscaping.
2. The plan included with the building permit application shall include a planting schedule and sufficient information as required for the installation of the planting strip, landscape screen and/or interior parking lot landscaping.
3. The Zoning officer shall determine compliance with the Article prior to issuing any building permits. In addition to the information required by subparagraph (2) above, the Zoning Officer may require the submission of any other information he deems necessary for determining compliance with the requirements of this Article.
4. Plans required to be submitted to the Zoning Officer may, but need not be, prepared by a landscape architect licensed to practice in the Commonwealth of Pennsylvania.

D. Enforcement/Assurances for Installation and Completion

1. Completion of Landscaping Required Prior to Issuance of Occupancy Permits

- a) Except where a landowner and/or developer provides adequate assurance for the completion of required landscaping work as outlined in Section 610.E.2. below, for any construction to which this Article applies, all landscaping work as indicated on the plan shall be completed before the Zoning Officer will issue an Occupancy Permit. The Zoning Officer shall inspect all work as indicated on the plan to determine if approved, and upon being satisfied that the work completed complies with that specified in the plan, the Zoning Officer shall issue an Occupancy Permit, provided that the landowner and/or developer has met all other requirements of this Ordinance for such a permit.
- b. At the time the Zoning Officer inspects the landscaping work, the landowner and/or developer shall make available to him a copy of the approved landscaping plan for his use. The Zoning Officer shall check the quantities, locations and sizes of the landscaping materials. The landowner and/or developer shall warrant that the completed landscaping complies with the approved landscape plan. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials on the landscape plan.

2. Adequate Assurances

- a. A landowner and/or developer may obtain an Occupancy Permit for a structure prior to the completion of required landscaping work if the completion is not possible due to seasonal or weather conditions and the landowner and/or developer provides adequate assurance to the Zoning Officer and Township for the completion of the landscaping work.
- b. The adequate assurance referred to in subparagraph (1) above shall be in such form as necessary to guarantee the completion of the landscaping, as the Zoning Officer or Township may require. Adequate assurance may take the form of a bond, irrevocable letter of credit, certified check, or other acceptable, recognized form of performance assurance. The amount of the adequate assurance shall be equal to the cost of the landscaping work.
- c. All adequate assurances shall be accompanied by a written statement that the landscaping will be completed to the satisfaction of the Township within a specified period of time, not to exceed nine (9) months from the date the Occupancy Permit is issued hereunder.
- d. In the event that an inspection is not conducted by the Zoning Officer prior to the issuance of an Occupancy Permit because the landowner or developer has provided adequate assurance for the completion of the required landscaping, the Zoning

Officer shall inspect the landscaping at the completion thereof. The adequate assurance will not be released until the Zoning Officer inspects and approves the landscaping.

E. Maintenance

1. The landowner and/or developer shall be responsible for maintaining the landscaping plan as originally approved. The landowner and/or developer shall be responsible for all regular and normal maintenance of landscaping, including seeding, fertilizing, pruning and mowing.
2. Any plant materials that exhibit evidence of insects, pests, diseases and/or damage shall be appropriately treated and all dead plant materials shall be removed and replaced with living plant materials.
3. Seeded landscape, planting strips or vegetative ground cover areas shall have no bare areas larger the six (6) square inches after germination.
4. Nothing in this article shall be construed to require the Township to maintain any areas required to be landscaped hereunder.
5. The landscape maintenance plan shall be prepared and submitted by the developer.

SECTION 611 TRAFFIC CONTROL SYSTEMS

- A. In any development requiring traffic control components, the Township shall receive, and the owner shall grant, a limited easement for the purpose of installing, repairing, maintaining, upgrading, removing or otherwise modifying any portion of the traffic control system including, but not limited to poles, control boxes, wiring, loops or other mechanisms embedded in the paved portion of the development used for traffic sensory or control, or other components.

ARTICLE VII

ADMINISTRATION

SECTION 701 MODIFICATIONS

- A. The governing body may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of the ordinance is observed.
- B. All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts or unreasonableness or hardship on which the request is based, the provision or provisions of the ordinance involved and the minimum modification necessary.
- C. If approval power is reserved by the governing body, the request for modification may be referred to the planning agency for advisory comments.
- D. The governing body shall keep a written record of all action on all requests for modifications.

SECTION 702 RECORDING PLATS AND DEEDS

- A. Upon the approval of a final plat, the developer shall within ninety (90) days of such final approval or ninety (90) days after the date of delivery of an approved plat signed by the governing body following completion of conditions imposed for such approval, whichever is later, record such plat in the office of the recorder of deeds of the county in which the municipality is located. Whenever such plat approval is required by a municipality, the recorder of deeds of the county shall not accept any plat for recording, unless such plat officially notes the approval of the governing body and review by the county planning agency, if one exists.
- B. The subdivider shall provide the Township with the original or a reproducible tracing for record purposes. Should the subdivider fail to record the final plan within such a period, the approval of the Supervisors shall be null and void unless an extension of time is requested by the subdivider in writing and is granted in writing by the Supervisors before the expiration date. The final plan shall be filed with the County Recorder of Deeds before preceding with the sale of lots or construction of buildings.
- C. Recording the final plan after the approval of the Supervisors shall have the effect of an irrevocable offer to dedicate all streets and other public way to public use, and to dedicate or reserve all park reservations and school sites and other public areas to public use, unless reserved by the subdivider as hereinafter provided. The approval of the Supervisors shall not impose any duty upon the Township concerning maintenance or improvement of any dedicated streets, park areas or portion of same until the proper authorities of the Township shall have made actual appropriation of the same by ordinance or resolution, or by entry, use or improvement.

- D. The recording of the plat shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plat.

SECTION 703 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 applications:
 - 1. The owner of record at the time of such violation.
 - 2. The vendee or lessee of the owner of record at the time of such violations without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
 - 3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
 - 4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the 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 704 JURISDICTION

District justices shall have initial jurisdiction in proceedings brought under the following section.

SECTION 705 ENFORCEMENT REMEDIES

- A. Any person, partnership or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under the MPC or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by the municipality, pay a judgement of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the municipality

as a result thereof. No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgement, the municipality may enforce the judgement 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.

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

ARTICLE VIII

PLAT CERTIFICATES AND FORMS

SECTION 801 GENERAL

In accordance with the requirements as set forth in this Ordinance, the undersigned applicant hereby applies for the approval of certain roads, drainage facilities and/or subdivision of lands and hereby sets forth the following:

- A. Attached to this application and made a part hereof is a copy of plans made up in accordance with this Ordinance.
- B. Applicants hereby sets forth in detail the character of the improvements to be made on the property shown on said plan as follows.
- C. Applicant agrees to open, lay out, and improve roads to construct all of the improvements, including drainage facilities upon the property shown on said plan.
- D. Applicant agrees to enter into contract in writing, prepared by the Township Solicitor, to install, erect, and construct the aforesaid improvements.
- E. Applicant shall furnish a Deposit of Financial Security as shall be approved by the Township Supervisors, in accordance with Article III of these regulations, to guarantee the completion of the required improvements as set forth in this Ordinance.
- F. Applicant hereby deposits the fee as set forth in this Ordinance.
- G. Applicant shall bear all costs of inspections required by the Township prior to acceptance by the Township.
- H. Applicant agrees in all respects to comply with the terms of this Ordinance.
- I. Applicant shall furnish a bond to provide a eighteen (18) month guarantee of all improvements made within the right-of-way.

_____, Year
Applicant

SECTION 802 SURVEYOR'S CERTIFICATE

"I, _____ hereby certify that I am a registered Land Surveyor in compliance with the laws of the Commonwealth of Pennsylvania; that this plat correctly represents a survey completed by me on _____, 20____; that all the monuments shown thereon actually exist; and that their location, size, type, and material are accurately shown."

Surveyor

SECTION 803 ENGINEER'S CERTIFICATE

"I, _____, hereby certify that I am a registered engineer in compliance with the laws of the Commonwealth of Pennsylvania; that this plat correctly represents a survey completed by me on _____, 20____; that all the monuments shown thereon actually exist; and that their location, size, type, and material are accurately shown."

Engineer

SECTION 804 ARTICLES OF AGREEMENT

The Applicant shall be required to enter into a developer agreement, substantially in the form attached to this ordinance or with such changes as shall be approved by the Township Solicitor or Board of Supervisors.

**DEVELOPER'S AGREEMENT
LAND DEVELOPMENT**

THIS AGREEMENT is made this _____ day of _____, _____ at Erie, Pennsylvania, by and between:

("Developer")

AND

TOWNSHIP OF HARBORCREEK ("Township")
5601 Buffalo Road
Harborcreek, PA 16421

Background

A Developer has submitted to Township and Township's Board of Supervisors has approved a final land development plan application for the _____ project, pertaining to property located at _____ in Harborcreek Township, Erie County, Pennsylvania and be part of Erie County Tax Index Numbers (27) _____ (the "Development").
The _____ project consists _____ of

B. The Harborcreek Township Subdivision and Land Development Ordinance requires that developers whose plan applications have been approved enter into a Developer's Agreement which, with other regulations as established in applicable laws, township ordinances and regulations, shall govern construction of the development and of stormwater management facilities and other improvements required to be constructed under the plan as approved.

C. This Agreement is intended to set forth the terms and conditions which shall govern construction, review and completion of the development and those improvements required to be constructed in connection with it.

NOW, THEREFORE, and intending to be legally bound hereby, the parties covenant and agree as follows:

Agreement

1. **Recitals Incorporated.** The above recitals are incorporated herein as though fully restated.

2. **Laws, Ordinances and Regulations Incorporated.** The Harborcreek Township Subdivision and Land Development Ordinance, Zoning Ordinance, Stormwater Management Ordinance, and all other laws, ordinances and regulations applicable to subdivision and development of land in Harborcreek Township are incorporated herein by reference.

3. **Plan Documents Incorporated.** Developer's plan application and all documents submitted with the plan, together with all decisions and notices of the Township with respect to the plan are incorporated herein by reference. All conditions outlined in the Preliminary Plan approval are incorporated into this Agreement.

4. **Storm Drainage Control During Development.** The Developer shall be solely responsible for ensuring proper storm drainage controls throughout construction of the development and the improvements required. Developer shall adhere to and comply with requirements of the Erosion and Sedimentation Plan for the development as approved by the Erie County Conservation District, and shall ensure that vegetative cover and topsoil is removed during development only as authorized and that cover is restored promptly as is practicable.

5. **Construction and Inspection of Required Improvements.**
 - A. Developer shall construct all improvements shown on the plan and required as a condition of the development's approval in accordance with the plan and in compliance with all Township specifications and regulations.

 - B. Developer shall provide adequate drainage for all streets, in accordance with applicable Township specifications and regulations.

 - C. Developer shall construct drainage and stormwater management facilities as shown on the approved plan and profile sheets.

 - D. Developer shall construct all sanitary sewer and water lines shown on the approved plan in accordance with specifications established by ordinances and/or regulations of the applicable water and/or sewer authority.

 - E. Developer shall have installed all parking lot lights per the approved plan.

 - F. Developer shall commence work on construction of the said improvements not later than _____.

 - G. All work in connection with construction of said improvements shall be completed not later than _____. Upon request of the Developer and

with the consent of Developer's surety or extension of Developer's letter of credit or cash deposit, Township's Board of Supervisors may in its discretion for good cause shown authorize reasonable extension of this deadline for completion.

- H. No work on improvements shall begin without prior notice to and approval of the Township.
- I. All work in connection with construction of the said improvements shall be subject to inspection from time to time by the Township Engineer, the applicable water and/or sewer authority and such other person as Township's Board of Supervisors may designate.
 - (i) Work relating to construction of water and sewer mains and lines shall be inspected by the authority to who said improvements shall upon their completion be dedicated and accepted.
 - (ii) Construction of stormwater management facilities and implementation of Developer's approved stormwater management plan shall be inspected by the Township's retained engineer or firm.
 - (iii) Construction of all other required improvements shall be inspected by the Township's Engineering Department and/or other designee of the Board of Supervisors.
 - (iv) Developer shall notify the appropriate inspector prior to commencing construction. Failure by the Developer to provide prior notice regarding construction shall not excuse deficient or untimely construction.

6. **Conditions Imposed on Plan Approval.** In addition to the foregoing, Developer shall construct and effect such improvements and take such actions as have been required as conditions upon approval of the final plan, as follows:

- A. Satisfaction of all items listed within the township engineer's review letter dated _____.

7. **Security for Completion of Improvements.** Prior to the Township's acceptance of this Agreement and release of the final plan for recording, Developer shall tender to the Township: (a) security in a form authorized under the Subdivision and Land Development Ordinance in the sum of \$_____.

- A. Township's approval of Developer's final plan shall be deemed to have expired and have revoked unless Developer shall tender the required security to the Engineering Department within ninety (90) days after the date of the plan approval, absent approval by the Board of Supervisors of an extension of time for good cause shown.

- B. Such security shall provide for and secure to the public the completion of all improvements which may be required on or before the date fixed in the Township's Ordinances and/or this Agreement for completion thereof.
- C. Adequate financial security for completion of required improvement shall be deemed to include any of those items authorized in the Subdivision and Land Development Ordinance, and must provide that:
- (i) The security is issued and given to the Township to assure completion of all improvements required in the development by the time fixed in this Agreement for completion of the same;
 - (ii) The security is irrevocable and shall be automatically renewed, if applicable, until such improvements are timely completed or the Township makes demand for payment thereon;
 - (iii) If the issuer of a letter of credit desires not to renew the issued letter of credit, it shall give to the Township Treasurer not less than 30 days' prior written notice of such intention;
 - (iv) Upon receipt of any notice of an intention not to renew a security where required improvements have not yet been completed, the Township at its election shall have the right to draw upon and obtain the entire balance of said security to assure completion of such improvements, which sums shall promptly and without claim or defense be paid over to the Township.
 - (v) In the event the Township exercises its rights to utilize the security to effect completion of required improvements, the Township shall be entitled to pay all engineering and attorneys' fees, advertising costs and other expenses incurred by it in effecting such completion;
 - (vi) If the developer fails to fully and timely complete required improvements by the time fixed for completion, the Township, upon adoption by the Board of Supervisors of a Resolution to that effect and written certification to the party issuing the security, shall be entitled to draw upon and obtain up to the full amount of the security, which sums shall then be promptly paid over to the Township without claim or defense.
- D. The amount of financial security set forth above is equal to 110% of the cost of completion of the required improvements estimated as of 90 days following the date scheduled for completion by the Developer. The Township may annually adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for completion of the remaining improvements as of the expiration of the 90th day after either the original date

scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the Developer to post additional security in order to assure that the financial security equals said 100%. Any additional security shall then be posted by the Developer within sixty (60) days after written notification by the Township, in accordance with the Ordinance.

- E. If the Developer requires more than one (1) year from the date of posting the security to complete the required improvements, the amount of the financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period in accordance with the Ordinance.
- F. As the work of installing the required improvements proceeds, Developer may request the Board of Supervisors to release or authorize the release from time to time, of such portions of the financial security necessary for payment to the contractor(s) performing such work. All such requests shall be in writing and directed to the Board of Supervisors. All such requests shall be addressed as set forth in the Ordinance.
- G. If no improvements are to be dedicated to the public, the Board of Supervisors shall authorize release of Developer's financial security upon the township Engineer's certification that required improvements have been completed in accordance with plan requirements and Township specifications. If any improvements are to be dedicated to the public, the Township shall retain an amount not to exceed 15% of the estimated cost of such public improvements for a period of 18 months after completion as security for structural integrity of the public improvements.

8. **Developer to Pay Fees and Costs.** Developer shall be responsible for payment of fees to Harborcreek Township in accordance with fee schedules adopted by the Board of Supervisors, and shall pay fees for all services rendered in connection with review and administration of the plan, inspections and certifications, engineering services, legal services required in review of documents, participation in communications, meetings and/or enforcement processes. Should Developer fail to pay to the Township by the date(s) specified fees or costs due, the Township may suspend further inspection and reviews, issue notice to the Developer to cease construction, refuse or suspend building and other permits and take such other enforcement measures as are authorized by law.

A. Developer is to submit a Professional Consultant Inspection Deposit in the amount of \$3,000.00, payable to Harborcreek Township.

B. Developer is to sign the Professional Consultant Inspection Reimbursement Agreement at time of Land Development submittal. Township's Engineer will conduct stormwater management facilities inspections during construction and a final inspection.

C. Developer will contact Zoning Administrator to schedule engineer's inspection 3 days in advance of

inspection.

9. **Maintenance of Snow and Ice Removal from Improvements.** Developer shall be solely responsible for maintenance of all improvements within the development. Developer shall hold Township harmless against and shall indemnify Township for all claims, demands, actions and causes of action of any nature for personal injury, death, property damage or expense (including attorneys' fees and litigation expenses) relating to or arising from the construction, repair and/or maintenance of improvements within the development

- A. Developer shall maintain and keep free from debris and encroachment all stormwater management and drainage facilities required under the Ordinance or the Stormwater Management Ordinance as there required. All storm sewer pipes and other drainage or stormwater management facilities shall be free of dirt and debris during construction.
- B. If, during construction or during the period of security for integrity of construction following acceptance of completion, repairs to required improvements are not made by the developer within seven (7) days after the date of Township's notice that such repairs are required, the Township shall be authorized to effect such repairs, itself or through a contractor and to invoice all costs thereof to Developer. In the event Developer should fail within thirty (30) days after the date of invoice(s) for such work to pay to the Township all invoiced sums, the Township shall be authorized, without further notice or demand and upon Resolution of the Board of Supervisors, to recover all such sums, together with all costs of advertising and for legal, engineering and other professional services, from the security tendered by Developer for completion of improvements.

10. **Construction and Maintenance of Sidewalks.** Developer shall construct in accordance with Township specifications all sidewalks required within the development. Sidewalks shall be constructed contemporaneously with completion of dwellings or buildings adjacent to them. Dwellings and buildings shall be deemed complete when occupied, and sidewalks required shall be complete prior to occupancy of the dwelling or building. Developer shall not assign the obligation to construct sidewalks in accordance with Township specifications.

11. **Prior Approval of All Declarations, Covenant and Restrictions.** Developer shall not record or issue, or cause to be recorded or issued any declarations, covenants, restrictions or conditions applicable to the property involved in the development without first submitting such documents to the Township and obtaining Township's approval thereof. Upon approval by the Township and recording thereof, Developer shall, within thirty (30) days after recording or issuance, provide to the Township Engineering copies of all final and/or recorded instruments pertinent to the development, which shall be maintained in the development's file.

- A. All restrictions, covenants and/or conditions declared or issued which pertain to the development shall state, in a form approved by the Township, the existence of property dedicated to public use, existence, nature and substance of easements declared or granted, the continuing effect of development regulations and

improvements required, the prohibition against acts or omissions modifying or in any way changing required features, rights or limitations on use or development, the perpetual nature of the stormwater management or grading plan and facilities, requirements and procedures for construction and inspection of sidewalks and such other matters as Township pursuant to ordinances and regulations shall require.

- B. Any declaration, restriction, covenant or conditions recorded or issued by or on behalf of Developer and/or Developer's grantees, successors or assigns contrary to the provisions of this Section and/or applicable Township ordinances and regulations shall be null, void and of no effect.

12. **Assignment Prohibited.** Developer shall not assign, transfer or set over Developer's rights or obligations under the plan as approved, this Agreement or otherwise, and no purported assignment shall be binding upon Township or interpreted as having any legal effect. No delegation of duties imposed by ordinances or this Agreement shall excuse Developer from the obligation to ensure construction of the development and improvements required therein in accordance with the plan, this Agreement and applicable laws, ordinances, specifications and regulations.

13. **Safeguards During Construction.** Developer shall construct the development and the improvements required therein in such manner as to keep free of mud and debris all streets and properties and to minimize noise and inconvenience to the public and owners or occupants of properties within or adjacent to the development. The Township is entitled to require that Developer during construction remedy conditions deemed to pose unreasonable risk of harm or inconvenience to the public or persons occupying properties in and adjacent to the development.

14. **Recording and Submission of Plan, Covenants.** Developer shall ensure that the final approved plan and all other documents required by the Township to be recorded are recorded at Developer's cost within thirty (30) days after final approval (or re-approval, if applicable) and release thereof by the Township. Developer shall submit to the Engineering Department not later than thirty (30) days after its recording three (3) copies of the recorded plan and one (1) copy of recorded restrictions, declarations, covenants and/or conditions.

15. **Declaration of Easements.** At the time of or prior to execution of this Agreement, Developer has made, signed, acknowledged and delivered to the Township for its approval a Declaration of Easements with respect to permanent easements granted under the plan as approved, inspections and/or maintenance of construction, improvements and stormwater management facilities and such other matters as are set forth in the Declaration. Developer shall ensure that the Declaration of easements as approved by the Township is recorded immediately after recordation of the plan, with plan recording information inserted on the document prior to recording, at Developer's cost. Such document upon recording shall be returned immediately by the Recorder of Deeds to the Township's solicitor and, if received by Developer or Developer's agents, shall be submitted immediately to the Solicitor. Under no circumstances shall Developer sell or agree to sell the premises subject to the development, or any lot therein, prior to recording of the Declaration of Easements as approved by the Township.

16. **Maintenance of Privately-Owned Properties.** Developer shall ensure, in a manner acceptable to Township, that provision is made for the future maintenance, repair and control of all improvements and lands in the development which are not dedicated or to be accepted as public improvements or to be conveyed to individual grantees, such improvements and land including but not limited to stormwater detention/retention facilities, open space, recreation areas and/or lands intended for the benefit in common of persons within the development.

17. **Time of the Essence.** Time shall be of the essence with respect to Developer's performance of obligations, payment of fees and construction of improvements within the development as established in applicable ordinances and specifications and in this Agreement.

18. **Amendment of Plan.** No amendment or modification of the approved final plan shall be effected, directly or indirectly, without the approval by the Board of Supervisors of an amended or modified plan, which amended or modified plan shall thereafter be recorded by the Developer in accordance with the Ordinance and this Agreement.

19. **Default and Remedies.** Developer's failure to construct the development in accordance with the approved plan, this Agreement and the Township's ordinances and regulations, and/or Developer's failure to perform obligations or pay sums by the dates established for performance or payment and/or any act or omission by Developer inconsistent with the requirements of the plan, conditions imposed on plan approval, this Agreement or Township ordinances and regulations shall be deemed a default of this Agreement.

- A. In the event of a default by Developer, the Township shall issue notice to the Developer of the default in accordance with Township ordinances then in effect.
- B. In the event Developer should fail to remedy all defaults and deficiencies by the deadline for remedy established by the Township, the Developer shall forfeit the right to cure such default, and Township shall have the authority to exercise all enforcement measures and remedies available to it under applicable ordinances.
- C. Upon occurrence of an uncured default, the Township has authority to issue to Developer orders to cease and desist in further construction and/or violations, to rescind or revoke permits previously issued, to withhold issuance of permits for which application has been made, to seek injunctive or other relief, to impose such fines for violations as are authorized by law, to exercise its rights under security tendered by Developer for construction of improvements and, without limitation, to exercise all rights and remedies available under law or in equity.

D. In the event of any default, breach or violation by the Developer, the Developer shall pay all attorneys' fees, costs and other expenses incurred by the Township in securing completion of improvements, effecting remedy of such default, breach or violation, exercising rights under and collecting sums under financial security tendered, enforcing its ordinances, collecting sums due from Developer and otherwise securing enforcement of this Agreement and rights. In the event Developer should fail to pay such sums within thirty (30) days after the date of Township's demand therefore, the Township may collect such sums from financial

security and/or by civil proceedings without any requirement for further demand.

20. **Modification.** This Agreement may be modified only by a writing signed by the parties to this Agreement or pursuant to written request of Developer granted by resolution adopted by Township's Board of Supervisors at a regular meeting. Documents confirming any modification or extensions of time for performance shall be made a part of the Engineering Department's file for this development.

21. **Legal Effect.** This Agreement shall be binding upon and inure to the parties, their personal representatives, successors, grantees and, to the extent allowed by this Agreement, their assigns

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed by their duly authorized officers the day and year first above written.

Witness/Attest

Developer: _____

By: _____

Title: _____

TOWNSHIP OF HARBORCREEK

Witness/Attest

Township Chairperson

By: _____

Print Name: _____

ACKNOWLEDGMENT

State of _____ :

: ss

COUNTY OF _____ :

On this, the _____ day of _____, 2020, before me, a Notary Public, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledge that he executed the same for the purpose therein contained.

In witness whereof, I hereunto set my hand and official seal.

SECTION 805 BOND

KNOW ALL MEN BY THESE PRESENTS, That we, _____, hereinafter referred to as the Obligor; and _____ as Surety, are held and firmly bound into THE TOWNSHIP OF HARBORCREEK, ERIE COUNTRY, PENNSYLVANIA, in the sum of _____ Dollar, lawful money of the United States of America, to which payment well and truly to be made, we and each of use, do bind and obligate ourselves, our heirs, Executors, Administrators, successors, and assigns, jointly and severally, firmly by these Presents.

SEALED WITH our seals and dated this ____ day of _____, 20__.

WHEREAS, above bounded obligor has entered into a certain Agreement with the Township of Harborcreek, Erei County, Pennsylvania, dated _____, 20__, in which obligor agrees to do certain work of construction of improvements in a Subdivision/Land Development made by him/her known as _____ which said Agreement is attached hereto and made a part hereof.

NO THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the obligor shall well and truly perform each and every act required by the terms of said Agreement, in compliance therewith, then this Obligation shall be null and void, otherwise it shall be and remain in full force and virtue.

IN WITNESS WHEREOF, the parties have caused these Presents to be duly executed the day and year first above written.

SECTION 806 OTHER FORMS

STATE OF PENNSYLVANIA,: SS. COUNTY OF ERIE,
On this, the ___ day of _____, 20___, before me a Notary Public, the undersigned officer,
personally appeared _____, who acknowledged himself to be the _____ of
_____ a corporation, and that he as such _____, being authorized to do so, executed the
foregoing instrument for the purposes therein contained by signing the name of the corporation by
himself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

STATE OF PENNSYLVANIA,: SS. COUNTY OF ERIE,

On this, the ___ day of _____, 20___, before me a Notary Public, the undersigned officer,
personally appeared _____, known to me (or satisfactorily proven) to be the person whose
name subscribed to the within instrument, and acknowledged that he executed the same for the
purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

CERTIFICATION

We hereby certify that the Harborcreek Township Subdivision and Land Ordinance was adopted by the Supervisors of Harborcreek Township, Erie County, Pennsylvania on this 28th day of November, 2001.

HARBORCREEK TOWNSHIP SUPERVISORS

Kenneth C. Springirth, Chairperson

Donna L. Mindek, Supervisor

David K. Bossart, Supervisor

ATTEST:

I hereby certify that the foregoing ordinance was advertised in the Erie Times on Friday, August 31, 2001, Tuesday, October 30, 2001, Tuesday, November 6, 2001 and Friday, November 16, 2001, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at a regular meeting of the Harborcreek Township Board of Supervisors held on November 28, 2001.
