

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

**ARTICLE I
GENERAL PROVISIONS**

100 Repealer and Conflict

This Subdivision and Land Development Ordinance, as adopted herein and as may be duly amended by the Board of Supervisors shall repeal and replace in total the Eldred Township Subdivision and Land Development Ordinance of June 17, 1992, as amended; provided however, that the repeal shall in no manner be construed as a waiver, release or relinquishment of the right to initiate, pursue or prosecute, as the case may be, any proceedings pertaining to any violation of the aforesaid ordinances, or any applicable predecessor ordinances and regulations; and, all provisions of the said repealed ordinances shall remain in full force and effect and are not repealed hereby as the said sections pertain to any such violation. This Ordinance is not intended to, and shall not be construed to, affect or repeal any other ordinance, code or regulation of the Township. If any other ordinance, code or regulation of the Township is in conflict or inconsistent with the requirements of this Ordinance, the most restrictive standards and provisions shall apply.

101 Title and Short Title

AN ORDINANCE GOVERNING SUBDIVISIONS AND LAND DEVELOPMENTS WITHIN THE LIMITS OF ELDRED TOWNSHIP AND PROVIDING APPLICATION PROCEDURES, DESIGN STANDARDS AND MAINTENANCE REQUIREMENTS FOR IMPROVEMENTS AND PRESCRIBING PENALTIES FOR VIOLATIONS. THIS ORDINANCE SHALL BE KNOWN AND MAY BE CITED AS THE *ELDRED TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE*.

102 Jurisdiction

102.1 Application

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

- A. No subdivision or land development of any lot, tract or parcel of land shall be made, and no street, sanitary sewer, storm sewer, water main or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of this Ordinance.
- B. No lot in a subdivision may be sold, no permit to erect or alter any building upon land in a subdivision or a land development may be issued, and no building may be erected in a subdivision or a land development, unless and until a plan of such subdivision or land development shall have been approved and properly recorded, and until the improvements required herein in connection therewith have been constructed or guaranteed as hereinafter provided.
- C. No person, firm or corporation proposing to make, or have made, a subdivision or land development within the Township shall proceed with any clearing of vegetation, cutting of trees, or grading before obtaining from Board of Supervisors the approval of the preliminary plan of the proposed development; and, no deeds shall be recorded for lots in any development, before obtaining from Board of Supervisors the approval of the final plan of the proposed subdivision or land development, except as otherwise provided herein.

- D. The proposed subdivision or land development plat shall be in general accordance with the the Township Comprehensive Plan.

102.2 Agricultural Lease Exemption

The subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres each, not involving any new street or easement of access or any residential dwelling, shall be exempted from regulation by this Ordinance.

102.3 Powers

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

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

102.4 Recording of Plans

In accord with §513 of the Pennsylvania Municipalities Planning Code, the Recorder of Deeds of the County shall not accept any subdivision or land development map or plan for recording unless such map or plan officially notes the approval of Board of Supervisors.

102.5 Township Records

- A. Planning Commission - The Planning Commission shall keep a record of the findings, decisions, and recommendations relative to all subdivision and land development plans recommended for action to the Township Board of Supervisors. Such records shall be open to the public for review.
- B. Board of Supervisors -The Secretary of the Board of Supervisors shall keep a record of the findings, decisions and recommendations relative to all subdivision and land development plans filed for action by the Board of Supervisors. Such records shall be open to the public for review.

103 Purpose; Community Development Objectives

103.1 Purpose

This Ordinance has been adopted to protect and promote the health, safety, and general welfare of the Township and its by establishing regulations to allow for the proper and controlled development of the Township, to provide for environmental protection and to ensure the proper provision of community facilities. Regulations for specific types of development for which additional standards have been deemed necessary are intended to protect the rights of the residents of the Township to enjoy clean air, pure water, and the natural, scenic, historic, and aesthetic value of the environment and, in particular, to preserve and conserve the rural and natural features of the Township. The basic tenet of subdivision and land development in the Township is to base design on land capability by encouraging flexibility of design via the *conservation subdivision design* process. Each development is based on the *existing*

resources and site analysis plan and the *four-step* design process required by this Ordinance. This will provide larger areas of open space within subdivisions and result in interconnected open space areas throughout the Township.

103.2 Community Development Objectives

In addition to the General Community Development Objectives set forth below, this Ordinance is intended to implement the goals and objectives contained in the Township Comprehensive Plan and any multi-municipal comprehensive plan or open space plan which may be adopted by the Township. The Community Development Objectives include, but are not limited to, the following:

- A. To achieve the best use of the land within the Township, insuring that varying use of land and water bodies will complement one another and thus improve the economic, social, and aesthetic character of the community
- B. To establish realistic population densities in order to insure health standards, privacy and open space and in order to provide utilities, police protection, and community services and facilities in the most convenient and efficient manner.
- C. To maintain and improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.
- D. To guide the location of future development and establish developmental standards in such a way that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air, land and noise pollution.
- E. To provide the opportunity for a wide-range and variety of housing types to meet the needs of all Township residents, newly-formed households, growing families and senior citizens.
- F. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.
- G. To expand local business and strengthen the economy by encouraging well-planned commercial, industrial, residential, and recreational growth which will provide for local employment, shopping facilities, and recreational opportunities which in turn will strengthen the local tax base.
- H. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

104 Interpretation

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

105 Effect of Ordinance Changes

Changes in this Ordinance shall affect plats as follows:

105.1 Pending Action

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

ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the Applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.

105.2 Project Completion and Effect of Litigation

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

105.3 Five Year Initiation

Where final approval is preceded by preliminary approval, the aforesaid five (5) year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

105.4 Substantially Completed Improvements

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

105.5 More Than Five Years

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

105.6 Sections

Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of twenty-five (25) percent of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by Board of Supervisors in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially

completing the improvements depicted upon the final plat within five (5) years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five (5) year period the aforesaid protections shall apply for an additional term or terms of three (3) years from the date of final plat approval for each section.

105.7 Landowner Failure

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

106 Subdivision or Land Development Re-design

In cases where a subdivision or land development has been approved under the provisions of Township ordinances which did not provide for conservation design and conservation open space, the Developer may, and is very strongly encouraged to, re-design and submit a new application for any undeveloped portions of the subdivision or land development. Any such re-design shall preserve the rights of any equitable owners of any lot or portion of the subdivision or land development.

107 Liability

Neither the approval nor the granting of any building permit, floodplain permit, site plan review, subdivision approval, land development approval, zoning permit, erosion review, storm water runoff review, wetland delineation or wetland review, steep slope review or any other review or permit of this Ordinance, involving any land governed by the provisions of this Ordinance, by an officer, employee, consultant or agency of the Township, shall constitute a representation, guarantee or warranty of any kind by the Township or its employees, consultants, officials or agencies of the practicality or safety of any structure, use or subdivision and shall create no liability upon, nor a cause of action against any Township body, consultant, official, or employee for any damage that may result pursuant thereto.

108 Pennsylvania Municipalities Planning Code Amendments

The provisions of this Ordinance that only repeat, summarize or reference provisions of the Pennsylvania Municipalities Planning Code shall be deemed to be automatically superceded and replaced by any applicable amendments to such provisions of the Pennsylvania Municipalities Planning Code at the date such amendments become effective as State law.

109 Severability

In the event that any provision, section, sentence, or clause of this Ordinance shall be held to be unconstitutional, such invalidity shall not affect or impair any remaining part of this Ordinance, it being the intent of the Township that such remainder shall be and shall remain in full force and effect.

110 Effective Date

This Ordinance shall take effect immediately upon its adoption.