

ARTICLE VI

CONSTRUCTION AND ACCEPTANCE OF PUBLIC AND PRIVATE IMPROVEMENTS

SECTION 600 CONSTRUCTION REQUIRED

- A. The applicant shall construct all roads, streets, lanes or alleys, together with all other improvements whether public or private, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm drainage facilities, sanitary sewers, landscaping, traffic control devices, open space and restricted areas and erosion and sediment control measures in conformance with the final plan as approved, and applicable provisions of the Pennsylvania Department of Transportation Specifications, Publication 408, dated 1987, or the latest revision thereto, or other applicable regulations.
- B. No plat shall be finally approved for recording, and no building permits shall be issued until the developer has completed all required improvements or has provided a performance guarantee in accordance with Section 310, hereof.
- C. All trenches or other excavations in existing or proposed Township streets shall be back-filled in accordance with the following:
 1. Back-filling shall be done as promptly as possible.
 2. The trench shall be back-filled with hand-placed screenings or 2RC to a height of at least one (1) foot above the top of the conduit, pipe or pipe bell. These screenings shall be thoroughly hand-tamped around the side of the pipe. These screenings shall be placed with the hand shovels and not from trucks or with the use of power equipment and shall be free from refuse, boulders, rocks, unsuitable organic material or other material that, in the opinion of the Township Engineer, is unsuitable.
 3. When the pipe is located in a dedicated street or any place where paving (including driveways) may be placed, the remainder of the trench shall be back-filled with 2RC or other approved materials and promptly compacted. The backfill material shall be mechanically tamped in approximately six (6) inch layers.
 4. Where openings have been made in existing Township roads, paving shall be restored in accordance with the paving

standards contained in this Ordinance. Openings made in State roads shall be restored in accordance with the Pennsylvania Department of Transportation Specifications. Permits shall be required before paving is opened in any existing State or Township road.

5. Where openings are made behind the curb line, work shall be as specified below. The opening shall be covered with good topsoil to a depth of six (6) inches and seeded or sod installed to the satisfaction of the Township Engineer.
 6. Whenever the trenches have not been properly filled or if settlement occurs, they shall be refilled, compacted, smoothed off and finally made to conform to the surface of the ground.
 7. Frozen earth shall not be used for backfilling, nor shall any backfilling be done when materials already in the trench are frozen.
 8. Where excavated material, or any portion thereof, is deemed by the Township Engineer to be unsuitable for backfilling, the developer shall procure and place backfill material approved by the Township, and the unsuitable material disposed of properly.
- D. At all times during the construction of the project, stone beds shall be positioned at all points exiting the site to facilitate the cleaning of mud and debris from all vehicles leaving the site.
- E. No burning or burying of trash or debris shall be permitted on the construction site. To ensure that all trash and debris is removed, a trash container of adequate capacity shall be placed at various locations on the work site.
- F. It shall be the developers' responsibility to notify all emergency service agencies serving East Pikeland when construction will begin and where the site is located.

SECTION 601 INSPECTIONS

- A. All land disturbance work shall be performed in accordance with an inspection and construction control schedule approved by the Township Engineer. No work shall proceed to a subsequent phase until inspected and approved by the Township Engineer or his designee, who shall then file a report thereon with the Township. The construction or installation of all improvements shall at all times be subject to inspections by

representatives of the Township. If such inspection reveals that work is not in accordance with approved plans and specifications, that construction is not being done in a workmanlike manner, or that erosion or sediment controls are failing to prevent accelerated erosion or waterborne sediment from leaving the site construction, the said representative is empowered to require corrections to be made, and upon approval by the Board of Supervisors and to issue a cease and desist order, which shall provide that no further construction shall take place on the site including construction on buildings for which permits are held by the developer except that construction necessary to remedy the defects cited.

- B. The said cease and desist order shall be terminated upon the determination by Township representatives that the said defects or deviations from plan requirements have been corrected.
- C. After commencement of initial earthmoving operations, the Township Engineer or his designee shall inspect at the following points in the development of the site, or of each stage thereof:
 - 1. Upon completion of stripping, the stockpiling of topsoil, the construction of temporary stormwater management and erosion control facilities, disposal of all unsuitable materials, and preparations of the ground.
 - 2. Upon completion of rough grading, but prior to placing topsoil, installing permanent drainage or other site improvements, or establishing covers.
 - 3. During construction of the permanent facilities, at such time(s) as specified by the Township Engineer.
 - 4. Upon completion of permanent stormwater management facilities, including established ground covers and plantings for that purpose.
 - 5. Upon completion of final grading, vegetative control measures and all other site restoration work undertaken in accordance with the approved plan and permit.
 - 6. The Township Engineer may make random inspections as he deems necessary and appropriate.
- D. No underground pipes, structures, sub-grades or base course shall be covered until inspected and approved by the Township. A minimum of six (6) inspections by the designated representative shall be required.

These inspections shall be effected as follows:

1. Excavation and completion of grade.
 2. Excavation, installation and completion of drainage, structures, community sewage systems or water supply systems.
 3. Before placing first base course and between such base course.
 4. Before binder course.
 5. Before wearing course.
 6. Final inspection in accordance with Section 601.A.
- E. The developer shall notify the designated representative of the Township (usually the Township Engineer) at least twenty-four (24) hours in advance of commencement of any construction operations requiring an inspection.
- F. In the review of any stormwater management plan, the Township Engineer shall have discretion to modify or waive the otherwise applicable inspection schedule called for in this section.
- G. The Board of Supervisors may prescribe that the applicant shall reimburse the Township for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer or consultant including wetland consultants for work performed for similar services in the Township, 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.
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) working days of the date of billing, notify the Township that such expenses are disputed as unreasonable or unnecessary, in which case the Township 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 Township and the applicant cannot agree on the amount of expenses

which are reasonable and necessary, then the applicant and Township 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 Township 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 Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding five (5) years.
5. The fee of the appointed professional engineer for determining the reasonable and necessary expense 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 Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay one-half (1/2) of the fee of the appointed professional engineer.

SECTION 602 MAINTENANCE RESPONSIBILITIES

A. Erosion and Sedimentation Control

All erosion and sedimentation control facilities shall be maintained in accordance with Chapter 22, Grading, Erosion and Sediment Control and Stormwater Management, of the Code of Ordinances of the Township of East Pikeland. Such maintenance obligations shall be memorialized through Stormwater Management and Maintenance Agreements, to be recorded with the Recorder of Deeds of Chester

County in form and substance acceptable to the Township Board of Supervisors.

B. Stormwater Management Facilities

All stormwater management facilities shall be maintained in accordance with Chapter 22, Grading, Erosion and Sediment Control and Stormwater Management, of the Code of Ordinances of the Township of East Pikeland. Such maintenance obligations shall be memorialized through Stormwater Management and Maintenance Agreements, to be recorded with the Recorder of Deeds of Chester County in form and substance acceptable to the Township Board of Supervisors.

C. Watercourses

1. Maintenance of all watercourses within any subdivision and/or land development is the responsibility of the landowner or developer. Such maintenance obligations shall be memorialized through Stormwater Management and Maintenance Agreements, to be recorded with the Recorder of Deeds of Chester County in form and substance acceptable to the Township Board of Supervisors.

2. It is the responsibility of any landowner or developer doing any act to on or across a watercourse or swale, or upon the flood plain or right of way thereof, to maintain as nearly as possible in its present state, the stream, watercourse, swale, flood plain or right of way for the duration of the construction activity and to return it to its original or equal condition after such activity is completed.

3. Maintenance of watercourses originating on private property is the responsibility of the owner to their point of discharge at the property line.

4. No landowner or developer shall block, impede the flow of, alter, construct any structure, or deposit any material, or commit any act that will affect normal or flood flow in any watercourse without having obtained prior approval from the Township and the Pennsylvania Department of Environmental Resources.

D. Irrespective of the provisions of the Zoning Ordinance, any recreation or open space areas created under the terms of this ordinance shall be owned and maintained as provided in Section 1301, Part 13, Chapter 27, of the Code of Ordinances, Township of East Pikeland.

SECTION 603 RELEASE FROM PERFORMANCE GUARANTEE

- A. When the developer has completed all of the necessary and appropriate improvements, he shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Township Engineer shall inspect all of the aforesaid improvements and file a report, in writing, with the Board, and shall promptly mail a copy of the same to the developer by certified mail. The report shall be made and mailed within thirty (30) days after receipt by the Township Engineer of the aforesaid authorization from the Board. Said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reason for such non-approval or rejection.

- B. The Board of Supervisors shall notify the developer, within fifteen (15) days of receipt of the engineer's report, in writing, by certified mail, of the action of the Board with regard to approval, non-approval, or rejection of improvements.

- C. If any portion of the said improvements shall not be approved or shall be rejected by the Board of Supervisors, the developer shall proceed to complete those improvements and, upon completion, the same procedure of notification as outlined herein shall be followed.

- D. The developer shall be responsible for maintenance of all subdivision or land development improvements until such improvements are offered for dedication and are accepted by the Township. In addition, ten (10) percent of the performance guarantee shall be held back by the Township until the developer has posted a maintenance guarantee, and as-built plans are verified and accepted by the Township. The maintenance guarantee shall total fifteen percent (15%) of the total costs of the public improvements and shall be binding for a period of eighteen (18) months.

- E. Partial releases of the performance guarantee during the period of construction shall be authorized as per Section 310.I.

SECTION 604 AS-BUILT PLANS

Within thirty (30) days after completion and Township approval of subdivision or land development improvements as shown on final plans, and before Township acceptance of such improvements, the developer shall submit to the Board a plan showing actual

locations, dimensions and conditions of streets and all other public or common private improvements, including easements showing geometry and monument locations certified by a registered engineer to be in accordance with actual construction. As-built plans shall show elevations and inverts to all manholes, pipes and roads.

SECTION 605 DEDICATION AND ACCEPTANCE OF PUBLIC
IMPROVEMENTS

- A. Upon completion of any public improvements shown on an approved subdivision plan and within ninety (90) days after approval of such public improvements as herein provided, the developer shall submit written offer of such public improvements for dedication to the Township. Said offer shall include a deed of dedication covering said public improvements together with satisfactory proof establishing the developer's clear title to said property. Such documents are to be filed with the Township Secretary for review of the Township Solicitor. Deeds of dedication for public improvements may be accepted by resolution of the Board at a regular meeting thereof. The Supervisors may require that at least eighty (80) percent of the lots in any approved subdivision or land development (or phase thereof, if final plan approval has been in phases) have certificates of occupancy issued for buildings thereon prior to acceptance of dedication. Should the streets, even though constructed according to the specifications of this Ordinance, deteriorate before the said eighty (80) percent of the lots have certificates of occupancy issued, such streets shall be repaired in a manner acceptable to the Board before being accepted by the Township.

- B. 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 Township 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 approved 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.

- C. If the developer fails to offer dedication of said improvements, then the Board may, in addition to any other remedies provided by law, require to

developer, or his heirs, successors, executors, or assigns, to make an offer at any time in the future that the best interests of the Township are served by the dedication and acceptance of the public improvements.

- D. The Township shall have no obligation to takeover and make public any street, other improvement or park, however, unless:
 - 1. The required improvements, utility mains and laterals, monuments, markers, etc., shown on the approved final plans, have been certified by the Township Engineer as having been constructed in accordance with the provisions of this Ordinance.
 - 2. It is established to the satisfaction of the Board that there exists a need for the improvements to be taken over and made public.
- E. The Township shall have no responsibility with respect to any park, street or other improvement, notwithstanding the use of same by the public, unless the park, street, or other improvement has been accepted by ordinance or resolution by the Board.
- F. The Board may require that certain subdivision and land development improvements remain undedicated, with maintenance the responsibility of individual lot owners, a homeowner's association or similar entity, or an organization capable of carrying out maintenance responsibilities.

SECTION 606 MAINTENANCE GUARANTEE

- A. Where the Board of Supervisors accepts dedication of all or some of the required improvements following completion (whether such dedication is of the fee or of an easement), the Board shall require the posting of financial security to secure the structural integrity of the improvements and the functioning of the improvements in accordance with the design and specifications as depicted on the final plan. The security shall be in the form authorized for the deposit of the performance guarantee, as described in Section 310, hereof, and shall be for a term of eighteen (18) months from the date of the acceptance of dedication and shall be in an amount equal to fifteen percent (15%) of the actual cost of installation of the improvements so dedicated.
- B. On or before the completion of subdivision or land development improvements, the permanent stormwater management system for a tract shall be installed or constructed in accordance with the approved stormwater management plan. All such work shall be as specified in the approved plan. Continued functioning of these facilities shall be guaranteed and maintained, as necessary, performed in accordance with Sections 310 (for the maintenance bond period required by Section 606.A), 306.B, and 602, of this Ordinance.