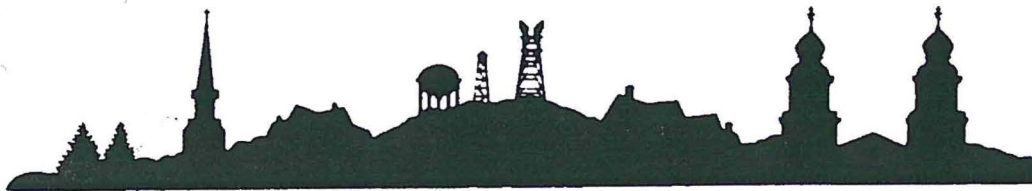


***SUBDIVISION
AND
LAND DEVELOPMENT
ORDINANCE***



***FREELAND BOROUGH, LUZERNE
COUNTY, PA***

ADOPTED: June 2, 2016

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PART 1

General Provisions

SECTION 101. SHORT TITLE. This Ordinance shall be known as the “Freeland Borough Subdivision and Land Development Ordinance of 2016.”

SECTION 102. PURPOSE. This Ordinance is adopted to:

1. Protect and promote the public health, safety, and general welfare of the residents of Freeland Borough.
2. Establish regulations to allow for the proper and controlled development of the Borough.
3. Provide for environmental protection.
4. Ensure the proper provision of community facilities.
5. Regulate specific types of development for which additional standards have been deemed necessary to protect the rights of the residents of Freeland Borough so that they may enjoy clean air, pure water, and the natural, scenic, historic, and aesthetic value of the environment and, in particular, to preserve the natural beauty of the Borough.
6. Provide uniform standards to guide the subdivision and development of land within Freeland Borough in order to promote the public health, safety, convenience and general welfare of the Borough.
7. Insure orderly growth and development while conserving and protecting the proper use of land.
8. Provide for the proper distribution of population.
9. Provide adequate provisions for traffic circulation, light, air, utilities and services.
10. Provide for the preservation of greenspace as a nonstructural stormwater best management practice (BMP) and watershed protection measure.
11. Provide a method for subdivision design that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.

12. Preserve in perpetuity unique or sensitive natural resources such as but not limited to groundwater, regulated floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat

13. Permit clustering of houses and site infrastructure on less environmentally sensitive soils which will reduce the amount and cost of infrastructure, including impervious surfaces and utility easements, necessary for residential development.

14. Reduce soil erosion and sediment pollution by minimizing earth disturbance and removal of existing vegetation in residential development.

15. Promote interconnected and continuous greenways and greenspace.

16. Encourage interaction in the community by clustering houses and orienting them closer to the street, providing public places and encouraging use of parks and community facilities as focal points in the neighborhood.

17. Encourage street designs that reduces traffic speeds and reliance on main arteries.

18. Promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.

19. Conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and view of open space.

20. Promote development that allows for property values to appreciate faster than properties in conventional subdivisions due to the added amenities provided by the adjacent open space.

SECTION 103. JURISDICTION.

1. Applicability. This Ordinance shall apply to all subdivisions and land developments in the Borough 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 proposing to make, or have made, a subdivision or land development within the Borough shall proceed with any clearing of vegetation, cutting of trees, or grading (with the exception of the required work associated with all types of soil testing and surveying activities) before obtaining from Borough Council the approval of a preliminary plan of the proposed development; and no deeds shall be recorded for lots in any development, before obtaining from Borough Council the approval of a final plan (with no conditions) of the proposed subdivision or land development, except as otherwise provided herein. If the preliminary plan is approved with conditions no construction of site infrastructure may commence until all conditions of the preliminary approval have been met by the applicant.

D. The proposed subdivision or land development plan shall be in general accordance with the Borough Community Development Objectives and the Borough and County Comprehensive Plans, if such plans exist at the time of a subdivision or land development application.

E. Parts 2, 3, 5, 6, 7 and 9 of this Ordinance shall apply to all subdivision and land development applications in Freeland Borough.

F. The standards for resource conservation and greenway delineation under Part 4 of this Ordinance shall apply to all major subdivisions and all land developments in all zoning districts of Freeland Borough. Minor subdivisions are exempt from both the resource conservation and greenway delineation requirements of Part 4.

G. Part 8 of this Ordinance shall apply to all land developments and subdivisions relating to Manufactured Home Communities.

H. This Ordinance shall not apply to any land developments of Freeland Borough Council, the Freeland Municipal Authority, and the Freeland Business and Development Authority or any other authorities created by Freeland Borough Council.

2. Powers. The Borough shall the power to:

- A. Administer the provisions of this Ordinance.
- B. Prohibit the development of any land found to be unsuitable as defined by this Ordinance.
- C. Require that improvements to land be made as defined by this Ordinance.
- D. Require the dedication of land as defined as a condition of subdivision or land development plan approval.
- E. Require adherence to this Ordinance and its standards.
- F. Require complete and accurate preliminary and final subdivision and land development plan submissions and additional information necessary to make reasonable evaluations of such plans.
- G. Make conditional approvals where requirements specified, in writing, by the Borough will satisfactorily protect the public health, safety and welfare and will not violate other Local and State Laws, but will accomplish the purposes of this Ordinance.

3. Recording of Plans. As a result of the mandates of Section 513 of the Pennsylvania Municipalities Planning Code, the Luzerne County Recorder of Deeds Office shall not accept any subdivision or land development plan for recording unless the plan officially notes the review of the Freeland Borough and Luzerne County Planning Commissions and the approval of Freeland Borough Council.

SECTION 104. INTERPRETATION.

1. In interpreting and applying the provisions of this Ordinance, the provisions shall be considered the minimum requirements for the promotion of the health, safety, and general welfare of the residents of the Borough.

2. This Ordinance does not repeal, annul, modify, or in any way impair, interfere with, or supersede any other rules, regulations or ordinances of the Borough except that where this Ordinance imposes a more stringent or greater requirement on the development of land or structures, the provisions of this Ordinance shall control.

3. This Ordinance does not repeal, annul, modify, or in any way impair, interfere with, or supersede any private restriction placed upon property by covenant, deed, or other private agreement. The provisions of this Ordinance shall be separate from any private restriction or covenant.

4. In the event that any of the provisions of this Ordinance conflict with another provision of this Ordinance or any other local, state or federal ordinance, law, statute or regulation, the most restrictive shall apply.

SECTION 105. EFFECT OF ORDINANCE CHANGES. Changes in this Ordinance shall affect plats as follows:

1. Pending Action. From the time an application for approval of a plan, whether preliminary or final, is filed with the Borough as provided in this Ordinance, and while such application is pending approval or disapproval, no change or amendment to this Ordinance shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision under this Ordinance without regard to the change or amendment and the plan as filed at the time the application. In addition, when a preliminary application has been approved, the applicant shall be entitled to final plan approval under the terms of the approved preliminary plan provided the preliminary plan does not differ from the final plan. However, if an application and plan is lawfully denied, any subsequent application or plan shall be subject to the intervening change or amendment to this Ordinance.

2. Project Completion and Effect of Litigation. When an application for approval of a plan, whether preliminary or final, has been approved under this Ordinance without conditions or approved by an 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 an applicant to commence and to complete any aspect of the approved development under the terms of such approval within five 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 that was imposed subsequent to the filing of an application for preliminary approval of a plan. In the event of an appeal filed by any party from the approval or disapproval of a plan, 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.

3. Five Year Initiation. Where final approval is preceded by preliminary approval, the five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they existed at the time when the application for such approval was filed.

4. Substantially Completed Improvements. Where the landowner has substantially completed the required improvements as depicted upon the final plan within the five-year limit, or any extension thereof as may be granted by Borough Council, no change to any Borough ordinances enacted after the date of filing of the preliminary plan shall modify or revoke any aspect of the approved final plan.

5. More Than Five Years. In the case of a preliminary plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by an applicant on or before the anniversary of the preliminary plan approval, until final plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of Borough Council in its discretion.

6. Sections. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by Borough Council in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with landowner's aforesaid schedule of submission of final plans for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plan within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within the five year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plan approval for each section.

7. Landowner Failure. Failure of a landowner to adhere to the schedule mentioned in this Section for submission of final plans for the various sections of a subdivision or land development shall subject any such section to changes in this Ordinance or other governing ordinances enacted by the Borough after the date of the initial preliminary plan submission.

SECTION 106. SEVERABILITY. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, unlawful, ineffective, or invalid, the validity of any of the remaining provisions of this Ordinance shall not be affected. It is hereby declared to be the intention of Borough Council that this Ordinance would have been adopted had such unconstitutional, unlawful, ineffective or invalid provision not been included therein.

SECTION. 107. PROCEDURAL DEFECTS. Any allegation that this Ordinance or any amendment to this Ordinance has been enacted in a procedurally defective manner shall be appealed within 30 days after the intended effective date of this Ordinance or any amended thereto.

SECTION 108. REPEALER. All other ordinances, or parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of any inconsistency or conflict.

SECTION 109. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its date of adoption, being this 2nd day of June, 2016.

ATTEST:

FREELAND BOROUGH COUNCIL:

Ann Marie Durange, Secretary

By: _____
David Mahon, President

APPROVED BY THE MAYOR: _____
Ed Appleman

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For and with the participation of:

Freeland Borough Planning Commission

Barbara Tulanowski
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James Laputka

For and with the consent of:

Freeland Borough Council

Barbara Tulanowski
David Mahon
Chris Kimmel
John Budda
Daniel Bobby
Lynn Falatko
Mary Feissner

PART 2

Definition of Terms

SECTION 201. RULES OF CONSTRUCTION. Unless the context clearly provides otherwise, the following words and terms shall be interpreted as follows:

1. Words used in the present tense shall include the future tense.
2. The word "person" includes an individual, corporation, firm, company, partnership, trust, estate, organization, association, sole proprietorship, or other entity.
3. The words "used" or "occupied" as applied to any land, structure or building include the words intended, arranged, or designed to be used or occupied.
4. The word "building" includes "part thereof", and the word "structure" includes "part thereof" and "building".
5. The word "lot" includes "plot", "parcel", "tract", "site", "land", and "property".
6. The word "shall" is always mandatory, the word "must" is always a mandatory condition, the word "will" is always a mandatory condition, and the word "may" or "should" or "can" means something is recommended or encouraged.
7. The singular includes the plural, and the plural the singular.
8. The masculine gender includes the feminine and the feminine the masculine.
9. The word "street" includes "right-of-way", "avenue", "court", "alley", "road", "highway", and "lane".
10. The words "applicant", "developer", "subdivider" and "owner" includes a person, individual, corporation, unincorporated association and a partnership, or other legal entity.
11. The word "watercourse" includes "channel", "creek", "ditch", "drain", "dry run", "river", "spring", and "stream".
12. The word abut includes directly across from.
13. If a word or term is not defined in Part 2, Section 202 below, but is defined in the Pennsylvania Municipalities Planning Code ("Pa MPC"), the

definition of the word or term shall be as defined in the Pa MPC. If a word or term is not defined in either this Ordinance or the Pa MPC, but is defined in the Borough Zoning Ordinance, then the definition in the Zoning Ordinance shall also apply to this Ordinance. If a word or term is not defined in either this Ordinance, the Pa MPC, or the Zoning Ordinance, then the word or term shall have its plain and ordinary meaning as defined by a standard reference dictionary.

SECTION 202. DEFINITION OF TERMS. When used in this Ordinance, the following words or terms shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

ACCESSORY USE OR STRUCTURE - A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A portion of a principal building used for an accessory use shall not be considered an accessory structure.

ADD-ON SUBDIVISION - See lot improvement subdivision.

ALLEY - A right-of-way, privately or publically owned, primarily for service access to the rear or sides of properties.

ALTERATIONS - As applied to a building or structure, means any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

APPLICANT - A landowner or developer, as hereinafter defined, who has filed an application for a subdivision or land development, including the heirs, successors and assigns of the applicant.

APPLICATION - Every application, whether preliminary 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 development plan.

BLOCK - A tract of land, a lot or groups of lots, bounded by streets, public parks, water courses, boundary lines of the Borough, unsubdivided land or by any combination of the above.

BOROUGH- The Borough of Freeland, County of Luzerne, and Commonwealth of Pennsylvania.

BUFFER - A strip of land that separates one use from another use or feature and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to affect a visual barrier, reduce noise,

block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases. A buffer yard may be a part of the minimum setback distance; however, land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

BUILDING COVERAGE - The percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures (including covered porches, carports and breeze ways, but excluding open and uncovered patios and decks).

BUILDING ENVELOPE - An area on a lot that has been designated as the area in which development may occur. Building envelopes are identified by building setbacks, conservation areas, site conditions and other factors, and shall be specifically designated on the development plan and established by deed covenants and restrictions.

BUILDING HEIGHT - The vertical distance measured from the mean level of proposed finished grade at the perimeter of the exterior walls of the structure to the highest point of the roof for flat roofs; and to the bottom of the eaves for all sloped roofs. Where any, or all, of a sloped roof is above the maximum building height, there shall be no occupied living or work space within the structure above the maximum building height. The maximum height of bottom of eave to ridge of roof for sloped roofs is 20 feet.

BUILDING, PRINCIPAL - A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

CALIPER - The diameter of a tree's trunk measured 12 inches above the ground.

CAMPGROUND OR RECREATIONAL VEHICLE PARK - A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles, and which shall not be used for the residency of occupants a for period of time greater than one year. All campgrounds and recreational vehicle parks shall be considered a recreational subdivision or land development.

CAMPSITE - A lot within a recreational vehicle park or campground to be used for camping purposes, and acting as a site for travel trailers, truck campers,

camper trailers, motor homes, or tents, marked by the developer on a plan as a numbered, lettered, or otherwise identified tract of land.

CARTWAY (ROADWAY) - The portion of a street right-of-way paved or unpaved intended for vehicular use, including the travel way and shoulders.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at street intersections, defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

COMMISSION OR PLANNING COMMISSION - The Freeland Borough Planning Commission wherein members of Council are appointed by Freeland Borough Council.

COMMON AREA - All of the real property and improvements dedicated for the common use and enjoyment of the residents of a particular development; including, but not limited to, open land, development improvements, common facilities, and recreation area.

COMMON FACILITIES - Improvements in a development that are not required by the Borough but have been constructed as part of a development for the common use and enjoyment of the residents of that development; including, but not limited to, community centers, recreation buildings and structures, and administrative and maintenance buildings.

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 designed and intended for the use and enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public or community facilities.

COMPREHENSIVE PLAN - The Freeland Borough Comprehensive Plan and/or the Luzerne County Comprehensive Plan including all maps, charts and textual matter.

CONSERVATION AREA, PRIMARY - Those areas of a development tract that are comprised of environmentally sensitive lands on which development is not permitted.

CONSERVATION AREA, SECONDARY - Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community development.

CONSERVATION EASEMENT - A right or interest in land granted primarily for the preservation of the land in its undeveloped state but which may allow limited

development (e.g., a residential structure) and other compatible uses such as agriculture and forestry.

CONSERVATION OPEN SPACE - That part of a particular conservation design subdivision development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance. Conservation open space may be accessible to the residents of the development and/or the Borough, or it may contain areas of farmland or forestland that are not accessible to project residents or the public.

COUNCIL OR BOROUGH COUNCIL- The elected officials of the Borough of Freeland, County of Luzerne, and Commonwealth of Pennsylvania, consisting of the seven members of Borough Council.

COUNTY - The County of Luzerne, Commonwealth of Pennsylvania.

CROSSWALK OR INTERIOR WALK - A right-of-way or easement for pedestrian travel across or within a block.

DEAD END STREET - A street or portion of a street with a single common ingress and egress.

DEDICATION - The deliberate appropriation of land by its owner for any general and public use, reserving unto the owner no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

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. A developer is sometimes referred to as a subdivider.

DEVELOPMENT IMPROVEMENTS - See improvement.

DIAMETER AT BREAST HEIGHT (DBH) - The diameter of a tree trunk measured at four and one-half (4.5) feet above the ground.

DISTURBANCE - Any action which results in the cutting or removal of vegetation on any land, and/or which results in the turning, displacement, grading or removal of any soil.

DISTURBED AREA - Any area of land on which the vegetation has been cut or removed, or where the soil has been turned, displaced, graded or removed.

DOUBLE FRONTAGE LOT - A lot extending between and having frontage on two streets with vehicular access limited to one street. If the streets are of different classification vehicular access is limited to the street of the lesser classification.

DRAINAGE FACILITY - Any ditch, gutter, pipe, culvert, storm sewer or other structure designed, intended, or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public right-of-way, parks, recreational areas, or any part of any subdivision, land development, or contiguous land areas.

DRIVEWAY - A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having frontage on the road (See also flag lot).

DWELLING- A building or structure used for residential purposes. This term does not include hotels, motels, boarding houses, rooming houses, group homes, personal care or nursing home, or other use intended for transient occupancy.

DWELLING TYPES- includes the following types of dwelling units:

1. MULTI-FAMILY- means a residential building containing three or more dwelling units each accommodating one family. The term includes apartments/condominiums, and townhouses or row houses.

2. SINGLE-FAMILY- means a residential building containing one dwelling unit to accommodate one family.

3. TWO FAMILY- means a residential building containing two dwelling units each accommodating one family, and entirely separated from each other by vertical walls or horizontal floors, excluding possible common access to enter or exit the building or for access to a common cellar or basement. The term two-family includes twins or duplexes. Dwelling types for purposes of this Ordinance includes modular homes, but shall not include manufactured homes or manufactured home communities. See Dwelling Type Illustration below.

DWELLING UNIT- means a building or portion thereof arranged or designed so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein. The term excludes manufactured homes but includes modular homes.

EASEMENT - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, within which the lessee or owner of the property shall not erect any permanent structure.

ENGINEER - A professional engineer licensed as such in the Commonwealth of Pennsylvania.

ENGINEER, BOROUGH - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Borough and/or Planning Commission.

FLAG LOT - A lot with access to the bulk of the lot provided by a narrow corridor from the adjoining public road.

FLOODPLAIN - A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

GOVERNING BODY- Freeland Borough Council.

GREENWAY LANDS- The amount of open space required under this Ordinance (20% of the total tract area) of a major subdivision. Greenway Lands include floodplains, buffer zones, bodies of water, wetland areas, populations of endangered/threatened species or habitat for such species as determined by the PNDI search, and steep slopes of more than 25%.

IMPERVIOUS SURFACE - Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher.

IMPROVEMENT - For the purpose of classification as a land development as defined in this Section 202 of the Ordinance, a physical addition or change to the land that may be necessary to make the land suitable for the proposed use or extension of use including, but not limited to, buildings, structures, additions to buildings and structures, roads, driveways, parking areas, sidewalks, stormwater controls and drainage facilities, landscaped areas, utilities, water supplies and sewage disposal systems, and any work involved with highway reconstruction.

LAND DEVELOPMENT –

1. A subdivision of land.
2. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - A. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,

B. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.

3. The definition of land development shall not include the following:

A. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium.

B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

C. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For purposes of this sub-clause, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

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), or a lessee, if he is authorized under the lease to exercise the rights of the landowner or other persons having a proprietary interest in the land.

LOT - A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

LOT, CORNER - A lot situated at and abutting the intersection of two streets having an interior angle of intersection not greater than 135 degrees.

LOT, DOUBLE FRONTAGE - A lot extending between and having frontage on two streets with vehicular access limited to one street. If the streets are of different classification vehicular access is limited to the street of the lesser classification.

LOT, EXISTING OF RECORD - Any lot or parcel of property which was legally in existence and properly on file with the Luzerne County Recorder of Deeds prior the effective date of the Freeland Borough Zoning Ordinance.

LOT, FLAG OR PANHANDLE - A lot with access to the bulk of the lot provided by a narrow corridor from the adjoining public road.

LOT COVERAGE - That portion or percentage of the lot area which is covered by buildings; paved and unpaved walkways, roads, driveways and parking areas; pavement; or other impervious surfaces.

LOT DEPTH - The average horizontal distance between the front lot line and the rear lot line. In the case of a flag lot, the depth measurement shall not include the access corridor but shall be made on the main portion of the lot.

LOT IMPROVEMENT SUBDIVISION - (Also known as add-on subdivision.) A minor subdivision involving the realignment of lot lines or the transfer of land to increase the size of an existing lot provided the grantor's remaining parcel complies with all provisions of this Ordinance and no new lots are created; or the combination or re-allotment of small lots into a larger lot or lots.

LOT LINE, FRONT - The line separating the lot from any street. In the case of a flag lot, the lot line where the narrow access corridor widens shall be considered the front lot line.

LOT LINE, REAR - The lot line most distant from and most parallel to the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT WIDTH - The horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated or as may be specified in this Ordinance. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to two-thirds (2/3) of the width that would otherwise be required if approved by Borough Council.. In the case of flag lots, the width measurement shall not include the access corridor but shall be made on the main portion of the lot.

LOW IMPACT LAND DEVELOPMENT- The improvement of one or more lots which combined are less than 20,000 square feet in land area involving the construction of a nonresidential building no more than 5,000 square feet in gross floor area, or a group of not more than three residential buildings proposed cumulatively.

MANUFACTURED HOME- A structure, transportable in one or more sections, which is built upon a chassis and is designed for permanent occupancy when placed on a foundation and connected to the required utilities. The term includes mobile homes and trailers, but does not include modular homes or recreational vehicles.

MANUFACTURED HOME COMMUNITY- A parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes or mobile homes.

MANUFACTURED HOME LOT- A parcel of land in a manufactured home community, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured home as defined by this Ordinance.

MATURE TREE - Any tree of six inches or more in caliper, whether standing alone, in tree masses, or woodlands. A mature tree shall be a healthy specimen and shall be a desirable species, as specified in the Borough Landscaping Regulations.

MEDIATION - A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

MINIMIZE - To reduce to the smallest amount possible. Minimize does not mean to eliminate but rather that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action (such as grading, clearing, construction, etc.).

MOBILE HOME - A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two 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, and which is subject to U.S. Department of Housing and Urban Development regulations. See definition of Manufactured Home.

MODULAR HOMES- A structures constructed entirely in factories and transported to their sites on flatbed trucks. They are built under controlled conditions and must meet strict quality-controlled requirements before they are delivered. They arrive as block segments and are neatly assembled, using cranes, into dwelling units that are almost indistinguishable from comparable ones built on-site.

MPC- means the Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247, as reenacted and amended. The term is sometimes referred to as the Pa MPC.

MULTI-FAMILY PROJECT - Any development of a single parcel of property that includes one or more buildings containing three or more dwelling units. Any residential development which proposes the construction of two or more two-family dwellings on one parcel of property shall also be considered a multi-family project. Two-family dwellings in a multi-family project shall be considered townhouses.

MUNICIPALITY - The Borough of Freeland, Luzerne County, Pennsylvania.

OPEN LAND OR OPEN SPACE - That part of a particular development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Ordinance and the Borough Zoning Ordinance. Open land may be accessible to the residents of the development and/or the Borough, or it may contain areas of farmland, forestland or conservancy lots which are not accessible to project residents or the public.

PA DEP - The Pennsylvania Department of Environmental Protection.

PA DOT - The Pennsylvania Department of Transportation.

PERFORMANCE GUARANTEE - A written instrument which may be accepted by Borough Council in lieu of a requirement that certain improvements be made by a developer before the final plan is granted final approval and released for recording, which shall provide for the deposit with the Borough of financial security in an amount sufficient to cover the costs of any improvements or common amenities including, but not limited to, roads, sanitary sewage facilities, water supply and distribution facilities, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements and buffer or screen planting which may be required.

PLAN OR PLAT - A map or drawing indicating the subdivision or re-subdivision of land or a land development which in its various stages of preparation includes the following:

1. SKETCH PLAN - An informal plan, identified as such with the title Sketch Plan on the map, indicating salient existing features of a tract and its surroundings and the general layout of the proposal to be used as a basis for consideration by the Borough. This plan is drawn on tracing paper or similar material enabling municipal officials to see the relationship between the

proposed layout and the property's features as identified on the Existing Resources and Site Analysis Map.

2. PRELIMINARY PLAN - A complete plan identified as such with the wording Preliminary Plan in the title accurately showing proposed streets and lot layout and such other information as required by this Ordinance, such plan having been prepared by a qualified professional (see definition of qualified professional).

3. FINAL PLAN - A complete and exact plan identified as such with the wording Final Plan in the title, with a qualified professional's seal (see definition of qualified professional) affixed and prepared for official recording as required by this Ordinance to define property rights, proposed streets and other improvements.

4. RECORD PLAN - The copy of the final plan which contains the original endorsements of Borough Council and which is intended to be recorded with the County Recorder of Deeds.

PLANNING COMMISSION - The Planning Commission of the Borough of Freeland, Luzerne County, PA.

POSITIVE DRAINAGE - Sufficient slope to drain surface water away from buildings without ponding.

PROFESSIONAL CONSULTANTS – Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, land architects or planners.

PUBLIC HEARING - A formal meeting held pursuant to public notice by the Governing Body or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance and the MPC.

PUBLIC MEETING - A forum held pursuant to notice under the act of July 3, 1986 (P.L.388, No. 84), as amended, known as the "Sunshine Act."

PUBLIC NOTICE - Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

QUALIFIED PROFESSIONAL - An individual authorized to prepare plans pursuant to §503(1) of the MPC which states that plats and surveys shall be

prepared in accordance with the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law, " except that this requirement shall not preclude the preparation of a plat in accordance with the act of January 24, 1966 (P.L. 1527, No. 535), known as the "Landscape Architects Registration Law, " when it is appropriate to prepare the plat using professional services set forth in the definition of the "practice of landscape architecture" under section 2 of that Act.

RECREATIONAL SUBDIVISION OR LAND DEVELOPMENT - The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, or parcels of land involving changes in existing lot lines for the purpose, whether immediate or future, of lease, rent, sale, or transportation of ownership to provide a site for occupancy by travel trailers, truck campers, camper trailers, motor homes, or tents for transient use, whether or not a fee is charged. Campgrounds, RV parks, primitive camping grounds and other similar facilities shall fall under this definition.

RECREATIONAL VEHICLE - A vehicular type of unit initially designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on, or drawn by, another vehicle. The basic types of recreational vehicles are:

1. CAMPER TRAILER - A vehicular unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite.

2. MOTOR HOME - A vehicular unit built on a self-propelled motor vehicle chassis.

3. TRAVEL TRAILER - A vehicular unit, mounted on wheels, of such size (no more than 500 square feet) and weight as not to require a special highway movement permit when drawn by a motorized vehicle.

4. TRUCK CAMPER - A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck.

5. SELF-CONTAINED UNIT - A unit which:

A. Can operate without connections to external sewer, water and electrical systems;

B. Has a toilet and holding tank for liquid waste; and

C. Contains water storage facilities and may contain a lavatory, kitchen sink and/or bath facilities connected to the holding tank.

RESERVE STRIP - A parcel of ground in separate ownership separating a street from other adjacent properties or from another street.

RE-SUBDIVISION - Any revision, re-platting or re-subdivision of land which includes changes to a recorded plan.

REVERSE FRONTAGE LOTS - Lots which front on one street and back on another with vehicular access solely from only one street.

RIGHT-OF-WAY - The total width of any land reserved or dedicated as a street, drainage way or for other public or semi-public purposes.

RUNOFF - That portion of rainfall or snow-melt which does not enter the soil, but moves off the surface.

SCREEN - A device, material or construction used to conceal an element of a development from other elements or from adjacent development or public road rights-of-way, which may include walls, fences, topography, berms, natural and planted vegetation or other means approved by the Borough.

SETBACK - An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines.

SEWAGE DISPOSAL SYSTEM –

1. CENTRALIZED - A publicly or privately owned and operated utility system or other system designed to collect, centrally treat (with a sewage treatment plan) and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the Borough.

2. COMMUNITY - A publicly or privately owned and operated utility system or other system designed for the collection of sewage from two or more lots and for the treatment and disposal of the sewage on one or more lots, or at any other site, by on-site subsurface (into the soil) disposal systems and techniques in compliance with regulations of the appropriate state agency and of the Borough.

3. INDIVIDUAL - A utility system or other system designed for the collection, treatment and disposal of sewage from a single lot into the soil or into the waters of the Commonwealth or for conveyance to another site for final disposal.

SEWAGE TREATMENT PLANT - A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of

Environmental Protection in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated, and which uses mechanical, biological and chemical processes to treat and dispose of domestic sewage in accord with DEP Rules and Regulations involving an effluent discharge to surface waters.

SEWER CONNECTION, MOBILE HOME - All pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe.

SEWER RISER PIPE, MOBILE HOME - That portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

SIGHT DISTANCE - The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SHOULDER - The improved portion of a street immediately adjoining the travel way.

SPECIMEN TREE - Any tree with a caliper that is 12 inches or more in diameter at breast height.

STREET - A strip of land, public or private, including the entire right-of-way intended for use as a means of vehicular and pedestrian circulation. For street types see Part 6. The term street also include road.

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 consolidation of contiguous lots, or the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

1. MINOR SUBDIVISION – any land development or subdivision in which:

A. No public or private street is to be constructed or is required to be widened;

B. No other improvement is to be constructed that requires any form of subdivision escrow agreement other than individual on-lot stormwater management system;

C. No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot; and

D. No more than five building lots are created; this does not include residual tract parcels that are subject to non-building sewage waivers.

2. MAJOR SUBDIVISION - Any subdivision that is not a minor subdivision or a lot improvement subdivision.

3. LOT IMPROVEMENT SUBDIVISION - (Also known as add-on subdivision.) A minor subdivision involving the realignment of lot lines or the transfer of land to increase the size of an existing lot provided the grantor's remaining parcel complies with all provisions of this Ordinance and no new lots are created; or the combination or re-allotment of small lots into a larger lot or lots.

4. MINOR SUBDIVISION EXEMPTION- A lot consolidation that otherwise meets the definition of a minor subdivision under this Ordinance shall be exempt from the minor subdivision process if the applicant can produce a certified property outbound survey of the parent tract completed by a licensed Professional Land Surveyor in Pennsylvania and a deed of the parent tract in recordable form to be approved by Borough Council before recording.

SUBSTANTIALLY COMPLETED - Where, in the judgment of the Borough Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to this Ordinance) 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.

SURVEYOR - A professional land surveyor licensed as such in the Commonwealth of Pennsylvania.

TRAVELWAY - The portion of the cartway used for normal movement of vehicles.

UNDISTURBED AREA - Any area of land on which the vegetation has not been cut or removed, or where the soil has not been turned, displaced, graded or removed.

VERNAL POND - An isolated, contained basin depression that holds water for at least two months in the spring and summer, critical to several amphibian, reptile and invertebrate species. It also provides important storage for stormwater runoff and spring snowmelt that would otherwise contribute to downstream flooding. A

vernal pond is no bigger than 300 feet long and 120 feet wide and is often much smaller.

WATER CONNECTION, MOBILE HOME - All pipes, fittings and appurtenances from the water-riser pipe to the water inlet pipe of the central water system in the mobile home park.

WATERCOURSE - Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial, intermittent or seasonal flow.

WATER RISER PIPE, MOBILE HOME - That portion of the water service pipe which extends vertically to the ground elevation and terminates at each mobile home lot.

WATER SERVICE PIPE, MOBILE HOME - All pipes, fittings valves, and appurtenances from the water main of the mobile home park central water system to the water outlet of the distribution system within the mobile home.

WATER SUPPLY, CENTRAL - A public or private utility system designed to supply and transmit drinking water from a common source to two or more dwelling units or uses in compliance with Pennsylvania Department of Environmental Protection regulations.

WATER SUPPLY, INDIVIDUAL SYSTEM ON CONSERVATION LAND - A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on adjacent conservation land via a use and access easement, and in compliance with the Pennsylvania Department of Environmental Protection if such compliance is required.

WATER SUPPLY, ON-SITE - A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on the same lot, and in compliance with the Pennsylvania Department of Environmental Protection if such compliance is required.

WETLAND - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, fens, and similar areas.

WOODLAND - A stand of predominantly native vegetation covering at least one acre, consisting of at least 50% cover of mature trees of varying size.

YARD - An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be

measured from the edge of the road right-of-way and other yards from property lines.

ZONING ORDINANCE- The Freeland Borough Zoning Ordinance of 2016, adopted February 4, 2016, as amended from time to time.

PART 3

General Procedures for All Subdivision and Land Development Plans

SECTION 301. GENERAL.

1. All preliminary and final subdivision and land development plans shall be reviewed by the Borough Planning Commission and approved, approved with conditions, or denied by Borough Council under the procedures specified in this Ordinance. Any application not processed, as required hereafter, shall be void unless it was made prior to the adoption of this Ordinance.

2. Overview of Procedures. The sequence of actions under this Ordinance are as follows:

A. Sketch Plan Submission and Review. No formal action will be taken on a Sketch Plan submittal. This step is mandatory for a major subdivision and land development and voluntary in all other cases.

B. Preliminary Plan, review by Planning Commission and action by Council. This step may be combined with step 3 when permitted by Borough Council and involving a minor subdivision or low impact land development.

C. Final Plan, review by Planning Commission and action by Council.

D. Planning Commission and Borough Council' signatures.

E. Recording of plan in the Luzerne County Recorder of Deeds Office.

3. For the purposes of procedure, all applications shall be classified as either major or minor.

A. Minor Subdivision- any subdivision in which:

i. No public or private street is to be constructed or is required to be widened. This does not include a driveway which is to be used for access to one single family residential lot.

ii. No other improvement is to be constructed that requires any form of subdivision escrow agreement other than an individual on-lot stormwater management system.

iii. No earthmoving activities will take place except those incidental to construction of a single-family dwelling on each lot.

iv. No more than five building lots are created. This does not include residual tract parcels that are subject to non-building sewage waivers.

v. A lot consolidation is to take place; provided, however, that a lot consolidation that otherwise qualifies as a minor subdivision under this Ordinance shall be exempt from the minor subdivision process if the applicant produces a certified property outbound survey of the parent tract completed by a licensed professional land surveyor in Pennsylvania and a deed of the parent tract in recordable form is first approved by Borough Council and then recorded in the Luzerne County Recorder of Deed's Office.

B. Major Subdivision- any subdivision application not a minor subdivision under Section 301(3)(A) above shall be considered a major plan.

4. Major subdivisions shall be subject to all review procedures specified in this Part.

5. When a tract is subdivided into parcels large enough to permit re-subdivision of the parcels, the Planning Commission may require the submission of a sketch layout showing future potential subdivision of the parcels to ensure that a future subdivision with appropriate access may be accomplished under this Ordinance. Submission and review of the sketch plan described in this Section shall not constitute approval of the future subdivision shown thereon.

SECTION 302. SUBMISSION OF SKETCH PLAN.

1. Applicability. A diagrammatic sketch plan is required for all proposed major subdivisions and land developments with a proposed building size of 10,000 square feet or more. Sketch plans shall be submitted to the Borough Secretary for review by Borough Council and the Borough Planning Commission. Such plans are for informal discussion only. Submission of a sketch plan does not constitute submission of an application for approval of a subdivision or a land development plan and shall not commence the statutory review period as required by the Pennsylvania Municipalities Planning Code. The procedures for submission of a diagrammatic sketch plan are described in Section 302 (6) below, and may be altered only at the discretion of Borough Council.

2. Submission of Existing Resources and Site Analysis Plan.

Applicants shall prepare and furnish an Existing Resources and Site Analysis Plan for all major subdivisions and land developments under Section 503 of this Ordinance, to familiarize the Borough with existing resources on the applicant's tract, and for use as a reference in making a site inspection. This plan shall be provided prior to the site inspection and shall form the basis for the preliminary plan.

3. Site Inspection. After completing the Existing Resources and Site Analysis Plan, applicants should arrange for a site inspection of the property by the Planning Commission and other Borough officials. Applicants, their site designers, and the landowner are encouraged to accompany the Planning Commission on the site inspection. The purpose of the visit is to familiarize the Borough with the property's existing resources and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the general layout of designated greenway lands (if applicable), and potential locations for proposed buildings and street alignments.

4. Pre-Sketch Conference. Following the site inspection and prior to the submission of a diagrammatic sketch plan, the applicant should meet with the Planning Commission to discuss the findings of the site inspection and to develop a mutual understanding on the general approach for subdividing or developing the tract under the four step design procedure described in Section 502 of this Ordinance, where applicable. At the discretion of the Planning Commission, this conference may be combined with the site inspection.

5. Sketch Plan Submission and Review.

A. Copies of the diagrammatic sketch plan shall be submitted to the Borough Secretary during business hours for distribution to Borough Council, the Planning Commission, and the Professional Consultants of the Borough, at least seven days prior to the Planning Commission meeting at which the sketch plan is discussed.

B. Standards for preparing the diagrammatic sketch plan are set forth in Section 502.

C. The Planning Commission shall review the sketch plan under the criteria contained in this Ordinance and with other applicable ordinances of the Borough. The Planning Commission shall submit its written comments to the applicant and Council.

SECTION 303. SUBMISSION REQUIREMENTS TO OUTSIDE AGENCIES.

All plans and documents that are required to be submitted to outside agencies shall be submitted to the agencies by the applicant. Proof of submittal to all required outside agencies must be provided by the applicant to the Borough at the time of the submittal of the original application. Any required submittals to the required outside agencies that cannot be verified by the Borough shall be considered reason to deem the application incomplete. Below is a general description of typical outside agency submittals:

- 1. Luzerne County Planning Commission:** One copy of the preliminary plans, reports, the appropriate Sewage Facilities Planning Module Form, a cover letter, two copies of the current deed(s) to the property, and all review fees shall be submitted to the Luzerne County Planning Commission for review and comment.
- 2. Pennsylvania Department of Environmental Protection:** Two copies of all preliminary plans, two copies of the appropriate Sewage Facilities Planning Module Form, and a cover letter shall be submitted to PA DEP. Also, depending on the nature of the project, all other required permit applications shall be submitted to the PA DEP for their review and approval.
- 3. Luzerne Conservation District:** Three copies of the E&S plans, Post Construction Stormwater Management Plans, E&S narrative and Post Construction Stormwater Management Report shall be submitted to the Luzerne Conservation District for review of matters relating to drainage, stormwater management, and abatement of soil erosion. Costs for such review shall be paid by the applicant.
- 4. Luzerne County Engineers Office:** One copy of the preliminary plans and reports shall be submitted to the Luzerne County Engineers Office for their review. Costs for such review shall be paid by the applicant.
- 5. Pennsylvania Historical Society:** One copy of preliminary plans shall be submitted to the Pennsylvania Historical Society for their review and research of historical significant sites prior to approval (if applicable).
- 6. Army Corps of Engineers:** One copy of preliminary plans and wetland delineation report shall be submitted to the Army Corps of Engineers for their review (if applicable).
- 7. Additional Plans:** Upon request by the Borough, the applicant shall submit such additional prints of all plans as may be necessary for forwarding by the Borough to any other agencies for their review.

SECTION 304. SUBMISSION OF PRELIMINARY PLAN.

1. After review of a sketch by the Planning Commission a detailed preliminary subdivision or land development plan and all necessary supplementary data shall be officially submitted to the Borough Secretary. The detailed preliminary plan shall conform to the sketch plan as previously reviewed by the Planning Commission and shall incorporate all modifications required by the Borough in its review of the sketch plan. Upon submission of the preliminary plan and supporting materials, the Planning Commission will schedule a public meeting and place the plan on its agenda. All Minor Subdivisions and "Low Impact Land Developments" may file simultaneously for preliminary and final approval at the discretion of Borough Council.

2. 12 copies of the preliminary plan and all other required documents and information shall be submitted to the Borough Secretary together with the required fees as authorized by this Ordinance and established by resolution of Borough Council. The Borough Secretary shall note the date of tentative receipt of the application and fees. The tentative date of receipt is subject to the review by Borough Council to determine if all required materials and fees have been submitted by the applicant for a completed application. The items required for a submission to be deemed complete are outlined in this Ordinance and the most current version of the Freeland Borough Subdivision and Land Development Application. If the application is defective or incomplete, the applicant shall be notified in writing by the Borough that the application is void and deemed withdrawn by the applicant. If incomplete, the applicant shall be free to refile an application and plan. If no such notice is given to the applicant that the application is defective or incomplete, it shall be assumed that the application and plan are complete and will be added to the agenda of the next regular meeting of the Borough Planning Commission. If the Planning Commission accepts the application as complete at the regular meeting, the meeting date will be the official date of the acceptance of a complete submission and the commencement of the Pennsylvania Municipal Planning Code required 90-day review period.

3. The Borough Secretary shall distribute the plans and documents submitted by the applicant as follows:

- A. Three copies of the plans and other required materials to the Borough Planning Commission.
- B. One copy of plans and all materials to the Borough Engineer.
- C. Seven copies of plans and all materials to Council of Council.
- D. One copy of plans and all materials to the Borough Solicitor.

E. The applicant shall pay all fees required for preliminary plan review, which fees shall be determined by resolution of Borough Council.

4. For all major subdivisions and land developments, the applicant shall provide proof of notification of the filing of the application by certified mail, return receipt requested, to all owners of properties abutting the tract proposed for subdivision. The notification shall include name and address of the applicant/developer, the tax parcel number of the tract, total tract acreage, number of lots proposed and any zoning changes, variances, special exceptions, conditional uses, and waivers of ordinance requirements being requested. Proof of the notice required by this subsection shall be provided to the Borough at the time of the original submission of the preliminary plan. Major subdivision and land development applications that are submitted to the Borough without the proper proof of notification shall be deemed incomplete by the Borough.

5. If at any time the applicant submits a revised preliminary plan with significant changes such as an increase of two or more proposed lots or dwelling units, an increase in the proposed non-residential building size by 10% or more, or any other significant change as determined by the Borough Planning Commission or Council that would require a new review by the County or notification to the public, the plan shall be deemed a new application and shall not be accepted unless it is accompanied by the applicant's written and executed agreement of a 90 day extension of the period required by the MPC for decision. No new application fee shall be required for any revision submitted within two years of the first preliminary plan application other than those required by the County.

6. The Pennsylvania Code, Title 67, Chapter 441.3 states: "No driveway, local road or drainage facility or structure shall be constructed or altered within State highway right-of-way, and no drainage facility of the Department shall be attached or connected onto without first obtaining a permit from the Department." Where required, developers will obtain a highway occupancy permit as a condition of preliminary subdivision approval or building permits. Any substantial change required by PennDOT during the process of obtaining Highway Occupancy will necessitate the resubmission of a revised preliminary plan to the Planning Commission.

SECTION 305. REVIEW OF THE PRELIMINARY PLAN.

1. Borough Planning Commission

A. The Borough Planning Commission shall review the preliminary plan and any recommendations made by the County, State and Federal agencies and the Borough Engineer.

B. After such review, the Planning Commission shall send written notice of its recommendations to Council, and is encouraged to cite specific sections of the statutes or ordinances relied upon.

C. The Planning Commission may refrain from making their recommendation to Council until the municipality has received the written report of the Luzerne County Planning Commission, the Luzerne County Engineers Office, the PA DEP, the Luzerne Conservation District, the Borough Engineer, the PA Department of Transportation, the PA Historical Society, results of the PNDI search or report from any other agency or municipality that may be involved in the review of the project.

2. Members of Council

A. When the recommendations on a preliminary plan have been officially submitted to Borough Council by the Planning Commission, such recommendations shall be placed on Council's agenda for review and action. At the discretion of Council, Council may place a project on their agenda for action if they feel the Planning Commission incorrectly delayed their recommendation on the project.

B. During or before the final plan review process, Council should complete review of the proposed Sewage Facilities Planning Module in accordance with PA DEP regulations and procedures. When approved or adopted by Council, the Planning Module shall be forwarded to PA DEP for review and approval. Planning modules will not be forwarded by the Borough to PA DEP until all items of the module checklist have been completed or adequately addressed.

C. In acting on the preliminary subdivision or land development plan, Council shall review the plan and the written comments of the Borough Engineer, the Planning Commission, the Luzerne County Planning Commission, Luzerne County Conservation District, DEP, and all other reviewing agencies, and comments from public hearings. Council may specify conditions, changes, modifications or additions thereto which it deems necessary or appropriate, and may make its decision to grant preliminary approval subject to such conditions, changes, modifications, or additions. Whenever the approval of a preliminary plan is subject to conditions, the written action of Council shall specify each condition of approval and request the applicant's written agreement to the conditions within 30 days of hand delivery or mailing of Council's written decision.

D. Notwithstanding the foregoing procedure, unless the applicant agrees in writing to extend the period for decision, Council shall render a decision on all preliminary plans and communicate the decision in writing to the applicant not later than 90 days following the date of the regular meeting of the Planning Commission in which the Commission accepted the plans.

E. The decision of Council shall be in writing and shall be communicated to the applicant personally or mailed to the applicant at the applicant's last known address not later than 15 days following the decision. The form and content of the decision shall comply with applicable requirements of the MPC.

F. The decision of Council shall also be communicated by the Borough to the governing body of any adjacent municipality, if the plan includes land in that municipality or directly abuts its boundaries.

G. A revised preliminary plan must be submitted if any revisions are made to the plan. Revisions include, but are not limited to, the following:

- i. Number, size, or alignment of layout of lots;
- ii. Width, location, or alignment of streets;
- iii. Traffic flow patterns or parking arrangements;
- iv. Drainage or utility systems;
- v. Proposed sewage facilities;
- vi. General type, number, size, or area of landscaping, buffering details, or locations of berms;
- vii. Use; or
- viii. Passive and Active open space.

H. If Council has not had sufficient time to make a decision based on the information presented by the applicant or the applicant has not had sufficient time to make revisions requested and agreed to by Council, the applicant has the right to request or present a written and executed agreement for a 90 day extension of the period for decision.

SECTION 306. SUBMISSION OF FINAL PLAN.

1. Unless otherwise extended by Council, a final plan and all necessary supplementary data shall be officially submitted to the Borough Secretary within two years after the approval of the preliminary plan. The final plan shall conform to the preliminary plan as previously reviewed by the Planning Commission and Council and shall incorporate all modifications required by the Borough in its review of the preliminary plan. The final plan and supporting materials must be submitted to the Borough a minimum of 14 days prior to the Planning Commission scheduling a meeting and placing the plan on its agenda for consideration. The same procedure as outlined in Section 305(2) will be used for a completeness determination by the Borough.

2. Council may permit submission of the final plan in phases, each covering a reasonable portion of the entire proposed development as shown on the approved preliminary plan; provided that the first final plan phase shall be submitted within two years after approval of the preliminary plan. Each subsequent phase shall be submitted within one year of approval of the previous phase, provided all phases have been submitted within five years of original approval.

3. Unless the filing deadline in Section 305(2) is waived or extended by Council, failure to make timely submission of final plans renders void a preliminary plan, and the applicant shall be required to file a new application and fee for preliminary plan approval.

4. The applicant will have five years, counted from the date of the preliminary approval, to substantially complete 90% of the installations of improvements as depicted on the final plat without losing subdivision or land development approval. Extensions may be requested and granted by Council in its discretion. In the case of a preliminary plan calling for the installation of improvements beyond the five year period, a schedule shall be filed by the applicant with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary approval, until final plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of Council in its discretion.

5. Official submission of the final plan to the Borough Secretary shall consist of:

- A. One copy of the application for review of final subdivision or land development plan.

B. 12 copies of the final plans and supporting materials to enable proper distribution and review by the Borough.

C. Copies of all applications made or notices provided to Federal, State and County agencies by or on behalf of the applicant for permits, certifications, approvals or waivers required sought for either subdivision or land development as proposed in the preliminary or final plan, including, but not limited to, applications or notices provided to the U.S. Army Corps of Engineers, U.S. Department of Agriculture Soil Conservation District, U.S. Environmental Protection Agency, Commonwealth of Pennsylvania Department of Environmental Protection (PA DEP) or Pennsylvania Department of Transportation (PA DOT), and Luzerne Conservation District.

D. Payment of application fees, if required, for plan review costs.

6. 12 required copies of the final plans and all required supplementary data shall be submitted to the Borough Secretary together with the required fees as prescribed by resolution of Council. The Borough Secretary shall note the date of receipt and shall then forward:

A. Three copies of the plans and other required materials to the Borough Planning Commission.

B. One copy of plans and all materials to the Borough Engineer.

C. Seven copies of plans and all materials to Council.

D. One copy of plans and all materials to the Borough Solicitor.

7. Where the final plan is for a minor subdivision, the applicant shall submit the plan in accordance with the requirements of Section 303 above.

SECTION 307. REVIEW OF FINAL PLAN.

1. Borough Planning Commission

A. The Planning Commission will review the final plan and the recommendations of the Borough Engineer and any other reviewing agencies.

B. After such review, the Planning Commission shall send written notice of its recommendation and its reasons to Council and the applicant. If the plan includes land in any adjacent municipality or directly abuts its boundaries, then such notice and

recommendation will also be transmitted to the governing body of the adjacent municipality.

C. No recommendations shall be made by the Planning Commission until the Borough has received the written report of the County Planning Commission, the Borough Engineer, the Pennsylvania Department of Environmental Protection (PA DEP), the Department of Transportation (PA DOT) , if applicable, and the approval of the Luzerne Conservation District, provided, however, that if these reports are not received within 45 days after the transmittal of the final plan to these agencies, then the Planning Commission may act without having received and considered such report if they so choose.

2. Members of Council

A. No approval of the final plan shall be granted by the Borough Council until notification of PA DEP's approval of the Sewage Facilities Planning Module has been received by Council. Should such notification not be received within the time limitations for final plan approval in accord with the MPC, the time limitations shall be extended for not more than 90 days at the written request of the applicant. If the applicant refuses to provide such written requests, the final plan shall be disapproved.

B. When a recommendation on a final plan has been submitted to Council of Council by the Planning Commission, such plan shall be placed on the agenda of Council of Council for review and action.

C. Upon receipt of the Planning Commission's recommendation and other supporting information, Council may, at one or more regular or special public meetings, review the final plan and shall, within the time limitations set forth herein below, either approve or disapprove the plan. Whenever the approval of a final plan is subject to conditions, the written action of Council shall specify each condition of approval and request the applicant's written agreement to the conditions.

D. Notwithstanding the foregoing procedure, Council should render a decision on all final plans and communicate it to the applicant, in writing, as required by the MPC.

E. If at any time the applicant submits a revised final plan with significant changes, it shall be deemed a new application and shall not be accepted unless it is accompanied by the applicant's written and executed agreement of a 90 day extension of the period

required by the MPC for decision. No new application fee shall be required for any revision submitted within two years of the first preliminary plan application other than those requested by the County.

F. Copies of the final plan, as finally approved with the appropriate endorsement of Council, shall be distributed as follows:

- i. At least three copies to the applicant of which one shall be recorded in accordance with Section 310.
- ii. One copy of plan and materials to the Borough Planning Commission.
- iii. One copy of plan and materials to the Borough for its files.
- iv. One copy of the plan and materials to the Borough Engineer and Borough Solicitor. If a road or storm water management system are involved, an additional "as built" plan with deed of application shall be submitted when completed if requested by the Borough.

3. Conditions of Final Plan Approval

Approval of any final plan shall, in addition to any other applicable provisions of this Ordinance, be subject to the following conditions:

- A. The landowner shall execute a subdivision and land development agreement in accordance with Section 307 and Section 707 of this Ordinance.
- B. Where applicable, the landowner shall execute a subdivision escrow agreement in accordance with Section 308 and Section 702 of this Ordinance.
- C. The landowner agrees, if requested, to tender to the Borough a deed of dedication in a form satisfactory to the Borough Solicitor for streets and improvements thereto, including street paving, water mains, fire hydrants, storm water management systems, play grounds, parks, and other appurtenances as shall be constructed as public improvements within the public right-of-way and are required for the promotion of public welfare, after all streets and improvements to be dedicated to the Borough are completed and are certified as being satisfactory by the Borough Engineer. Council shall require that the applicant provide a certificate from a

duly licensed title insurance company certifying that the title to be conveyed is good and marketable, free of all liens and encumbrances, except utility easements, before any property is accepted by the Borough.

D. Whenever the landowner is providing open space as part of the development, an easement in perpetuity restricting such open space against further subdivision or development shall be executed between the landowner and the Borough or an organization acceptable to the Borough.

E. The applicant shall submit to the Borough all required permits, approvals or waivers from agencies having jurisdiction over ancillary matters necessary to effect the subdivision or land development, such as Pennsylvania Departments of Transportation, Environmental Protection or Public Utility Commission, U.S. Army Corps of Engineers, and Luzerne Conservation District.

F. All final approvals or waivers required by Federal, State, and County agencies for development in accord with the final plan including, but not limited to, approval of the Sewage Facilities Planning Module by the PADEP, approval by the U.S. Department of Agriculture Soil Conservation District and a Highway Occupancy Permit, if required, from PennDOT shall be presented to the Borough.

SECTION 308. SUBDIVISION AND LAND DEVELOPMENT AGREEMENTS.

The applicant shall execute a subdivision and land development agreement, and a subdivision escrow agreement, before the final plan is signed and released by Council for recording. The requirements for the Subdivision and Land Development Agreements can be found in Section 707 of this Ordinance.

SECTION 309. IMPROVEMENT GUARANTEE (ESCROW AGREEMENT).

The requirements for the Improvement Guarantee can be found in Section 704 of this Ordinance.

SECTION 310. RECORDING OF DETAILED FINAL PLAN. Within 90 days of the detailed final approval and the applicant's execution of the Subdivision and Land Development Agreement and Subdivision Escrow Agreement, if required, the final plan shall be recorded by the applicant in the office of the Recorder of Deeds of Luzerne County or the plans shall be void. A copy of the receipt from the office of the Recorder of Deeds, verifying that the Final Approved Plan has been recorded, shall be returned to the Borough Secretary within 15 days of recording. The Borough Secretary shall affix the receipt to the Borough file copy of the approved final plan.

SECTION 311. COMMENCEMENT OF DEVELOPMENT AND PERMITS.

1. Infrastructure may be constructed once preliminary approval has been granted and all outside agency permits that relate to construction are obtained. If a plan is granted preliminary approval with conditions by Council infrastructure may not be constructed until all conditions of the approval have been met by the applicant. No on-lot building construction activities (including earthmoving activities, but not including soil or percolation testing or surveying activities) shall begin until the Borough Secretary has received a copy of the Recorder of Deed's receipt for recording of the final plan, and a building or driveway permit has been issued by the Borough Zoning Officer and Building Code Official.

2. No application for a building permit under the Borough Zoning Ordinance shall be submitted, and no building permit under the Uniform Construction Code shall be issued for any building in any subdivision or land development, and no work shall be done on any building in any subdivision or land development until it has been approved as provided for and until the terms of Section 310 have been satisfied. Exception for one building on one lot prior to final approval being granted may be allowed. Further, where final subdivision and land development approval has been conditioned upon the submission and approval of an individual lot grading plan for some or all of the lots, no building permits shall be issued for construction on any such lot until this condition has been met.

3. No water system or sewer system, including extensions to existing or proposed central systems or new systems using sewage treatment plants, shall be constructed before the issuance of appropriate permits are issued by the Pennsylvania Department of Environmental Protection or from federal or local agencies, as required.

4. Before the issuance of building permits, all roads, stormwater management facilities, both temporary and permanent, and all other public improvements, shall be installed and established to the satisfaction of the Borough Engineer or such improvements shall have been properly guaranteed.

SECTION 312. LAND SALES AND AUCTIONS. Land sales or auctions of anything other than a complete tax parcel, whether new streets or easements are involved, shall be considered a subdivision. Final plan approval for such a subdivision shall be obtained before advertising of the sale or auction, so that sale and offers to sell shall be with reference to an approved final subdivision plan.

SECTION 313. TIME LIMITATION OF PLAN. The continuing validity of any approval of plans under this Part shall be subject to those limitations established by Section 508(4) of the MPC.

Part 4

Guidelines for Resource Conservation and Greenway Lands

SECTION 401. PLANNING AND DESIGN STANDARDS.

1. General Standards to Minimize Adverse Impacts. All subdivisions and land developments shall avoid or minimize adverse impacts on the Borough's natural, cultural and historic structures.

2. Groundwater Resources. This section is intended to ensure that the Borough's limited groundwater resources are protected for purposes of providing water supplies for its residents and businesses, and to protect the base flow of the Borough's surface waters.

A. The proposed subdivision and land development of any tract shall be designed to cause the least possible disturbance to natural infiltration and percolation of precipitation to the groundwater table, through careful planning of vegetation and land disturbance activities, and the placement of streets, buildings, and other impervious surfaces.

B. All proposed subdivisions and land developments in which the total land disturbance is greater than one acre shall be required to infiltrate the net increase in stormwater runoff due to site development resulting from the two-year, 24-hour frequency storm event if the on-site soil evaluations find that the existing soils are suitable for infiltration.

C. On-site soil evaluations are required to be completed by the applicant and are to be in-conformance with the most recent PA DEP guidelines. The evaluations shall determine if stormwater infiltration is feasible, the best locations for the stormwater infiltration Best Management Practices (BMP's) and the infiltration rate to be used for design. A licensed soil scientist or qualified professional engineer shall perform the soil evaluations.

D. Pre-development and post-development stormwater runoff calculations must be provided and shall be in conformance with the standards outlined in the Borough's Stormwater Management Ordinance and Section 620 of this Ordinance.

E. Aquifer tests for major subdivisions and land developments to be served by a new water system or individual on-lot water wells may be required by the Borough if the proposed project is in proximity to areas known groundwater contamination or inadequate yields of potable water supplies. Aquifer tests will be required for all

new developments in which the developer plans to construct, operate or substantially modify a water system which will serve 15 new service connections, 25 year-round residents or the development involves the construction of 25 or more individual on-lot water wells. See Section 618 for specific standards.

3. Stream Valleys, Wetlands, Swales, and Other Lowland Areas.

Stream valleys (which include stream channels and flood plains), wetlands, swales, springs, and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their ground water recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems.

A. Any encroachment on areas determined to be within a waterway of the Commonwealth shall be regulated by PA Code Title 25 Chapter 105, Dam Safety and Waterway Management, and Chapter 106, Floodplain Management, as amended.

B. A 50 feet wide undisturbed buffer shall be required around the perimeter of all delineated wetlands and other surface waters unless the proposed earth disturbance is associated with a state or federal wetland encroachment permit. For all streams with mapped floodways there is to be no disturbance within the FEMA floodway line. For streams that are not shown on the FEMA mapping the floodway is assumed to be 50 feet from the top of the bank of the stream on both sides however a buffer zone of 75 feet is required from the top of the banks of all streams. There is to be no disturbance within the assumed floodway area or buffer area.

C. The following activities shall be minimized:

i. Disturbance to streams.

ii. Disturbance to wetlands, areas with seasonally high water tables and areas of surface water concentrations. No disturbance to a wetland is permitted without proof the applicable permit from the state or federal government has been submitted to the Borough.

iii. Because of their extreme limitations, stream valleys, swales and other lowland areas warrant designation as greenway lands. They may also require adjoining buffer lands to be included in the greenway, to be determined by an analysis of the protection requirements of such areas on a case-by-case basis. In certain instances, seasonal high

water table soils may be excluded from the greenway where it can be demonstrated that they are suitable for low density residential uses and conventional on-site sewage systems.

4. Woodlands.

A. Woodlands occur at several of the boundaries of the Borough, often in association with moderate to steep slopes. Woodland conditions within Freeland Borough vary with respect to species composition, age, stocking, and health. They range from relatively recent post-agricultural young stands to mature mixed-age forests. Most woodlands in the Borough represent one or more of the following resource values:

- i. As soil stabilizers, particularly on moderate to steep slopes, thereby controlling erosion. A closely related function is their enhancement of ground water recharge.
- ii. As a means of improving harsh microclimatic conditions, in both summer and winter.
- iii. As habitats and corridors for woodland birds, mammals, and other wildlife.
- iv. As recreation resources for hunters and other related outdoor activities.
- v. As visual buffers between areas of development and adjacent roads and properties.

B. Because of their resource values, all woodlands on any tract proposed for subdivision or land development shall be evaluated by the applicant to determine the extent to which such woodlands should be designated partly or entirely as greenway or development lands. Projects that are required to obtain a PA DEP National Pollution Discharge Elimination System (NPDES) Permit for stormwater discharges associated with construction activities can receive stormwater volume credits for protecting existing woodland areas. Evaluation criteria shall include:

- i. Configuration and size.
- ii. Present conditions, i.e., stocking, health and species composition.

iii. Site potential, i.e., the site's capabilities to support woodlands, based upon its topographic, soil and hydrologic characteristics.

iv. Ecological functions, i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats.

v. Relationship to woodlands on adjoining and nearby properties and the potential for maintaining continuous woodland areas.

C. The evaluation of the tract's woodlands shall be undertaken by a forester, landscape architect, horticulturist or another qualified professional acceptable to the Borough, which is required to be submitted as a report and made a part of the application for a preliminary plan. At a minimum, that report shall include one or more maps indicating boundaries and conditions of woodland areas accompanied by a report addressing the criteria above. In designing a subdivision and land development plan for any tract, the applicant shall be guided by the following standards:

i. Woodlands exceeding one acre shall be preserved and designated as greenway areas, to the maximum extent possible. Proposed site improvements shall be located, designated and constructed to minimize the loss or degradation of woodland areas.

ii. Subdivisions shall be designed to preserve woodlands along existing roadways, property lines and other features occurring within a site such as swales and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, under story and canopy vegetation.

iii. Disturbance or removal of woodlands occupying environmentally sensitive areas shall be undertaken only when approved by Council and on a limited, selective basis to minimize the adverse impacts of such actions. This includes but is not limited to vegetation performing important soil stabilizing functions on wet soils or sloping lands.

iv. No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems, stormwater

infiltration testing or if associated with surveying activities) shall be permitted on a site before preliminary plan approval is granted. The determination of sight distance clearances along roadways shall be made graphically and not by clearing on-site prior to preliminary plan approval.

5. Slope Areas. Moderately sloping lands (15% to 25%) and steeply sloping lands (over 25%) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety.

- A. Areas of steep slope shall be preserved in accordance with Section 401 and as required below.
- B. All grading and earthmoving on slopes exceeding 15% shall be minimized.
- C. No site disturbance shall be allowed on slopes exceeding 25% unless the design engineer can demonstrate that the proposed slopes can be stabilized; however, grading in these areas should be avoided completely if at all possible. Individual lot grading plans are required for all lots in which any proposed grading is to take place on existing slopes that exceed 25%.
- D. Grading or earthmoving on all sloping lands of 15% or greater shall not result in earth cuts or fills whose highest vertical dimension exceeds 10 feet, except where it could be proven no reasonable alternatives exist for construction of roads, drainage structures and other public improvements, in which case such vertical dimensions shall not exceed 15 feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

6. Significant Natural Areas and Features. Natural areas containing rare or endangered plants and animals, as well as other features of natural significance, exist throughout the Borough. Some of these have been carefully documented, e.g., by the Pennsylvania Natural Diversity Inventory, whereas for others, only their general locations are known. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features either identified by the Borough or by resource inventories of individual subdivision tracts (as required in Section 502 by incorporating them into proposed greenway areas or avoiding their disturbance in areas proposed for development).

7. Historic Structures and Sites. Pennsylvania's documented historical structures begin with the arrival of pioneers in the Commonwealth in the late 18th century. Freeland Borough's historic records are maintained by the Pennsylvania Historical and Museum Commission (PHMC).

A. All subdivisions and land developments shall comply with the Historic Preservation Standards of the PHMC.

B. Plans requiring subdivision and land development approval shall be designed to preserve existing historic structures of all classes. The preservation of an existing historic structure shall include the preservation of the landscape immediately associated with and significant to that structure, to preserve its historic context. Where, in the opinion of the Borough, a plan will have an impact upon a historic structure, the developer shall mitigate that impact to the satisfaction of the Borough by modifying the design, relocating proposed lot lines, providing landscape buffers, or other approved means.

C. Borough participation, review, and approval of the applicant's interaction with the PHMC with regard to the preservation of historic structures may be required for the PA DEP approval of a proposed sewage disposal system.

8. Historic Rural Road and View Corridors. All applications for subdivision and land development shall attempt to preserve the scenic visual corridors along such roads by incorporating them into greenway areas or otherwise providing for building setbacks and architectural designs to minimize their intrusion. In instances, where such designs fail to satisfactorily protect corridors, applicants will be required to provide landscape buffers to minimize their adverse visual impacts.

9. Trails.

A. When a subdivision or land development proposal is traversed by or abuts an existing trail or bike path customarily used by pedestrians, the applicant is encouraged to make provisions for continued recreational use of the trail; however, maintaining an existing trail is not a requirement of this Ordinance.

B. If the applicant chooses to alter the course of an existing trail within the tract for which development is proposed, the alteration should consist of the following, if feasible:

i. The points at which the trail enters and exits the tract remain unchanged.

ii. The proposed alteration exhibits quality trail design according to generally accepted principles of landscape architecture.

iii. The proposed alteration does not coincide with a paved road intended for use by motorized vehicles.

C. When trails are intended for public or private use, they shall be protected by a conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of 10 feet. The language of the conservation easement shall be to the satisfaction of the Borough upon recommendation of the Borough Solicitor.

D. The land area permanently designated for trails for public use may be credited toward the open space requirement.

E. An applicant may propose and develop a new trail. If the trail is available for use by the general public and connects with an existing trail, the land area protected for the trail may be credited toward the open space requirement.

F. Trail improvements shall demonstrate adherence to principles of quality trail design.

G. Trails shall have a vertical clearance of no less than 10 feet.

H. Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall be less than four feet or greater than eight feet.

I. No trail shall be designed with the intent to accommodate motorized vehicles.

SECTION 402. PERCENTAGE OF GREENWAY LANDS REQUIRED WITHIN MAJOR SUBDIVISIONS. A minimum of 20% of the Total Tract Area of a major subdivision shall be comprised of Greenway Lands, which may include floodplains, buffer zones, bodies of water, wetland areas, populations of endangered/threatened species or habitat for such species as determined by the PNDI search, and steep slopes of more than 25%. All Greenway lands shall be connected to a public right of way by a greenway corridor, easement, or right of way of a minimum width of 20 feet. Greenway Lands shall be documented under Section 502 of this Ordinance. Development areas constitute the remaining lands of the tract outside of the designated Greenway Lands, where dwellings, streets and lots are to be delineated. The following site improvements are

allowed in Greenway Lands: roads, driveways, stormwater facilities, trails, and recreational areas. Selective timbering, agriculture, horticulture, silviculture or pasture uses are permitted in the Greenway Lands.

SECTION 403. GREENWAY DESIGN REVIEW STANDARDS.

1. Resources to be conserved. The design of Greenway Lands in a major subdivision plan shall reflect the standards set forth in Section 401 and, to the fullest extent possible, incorporate all of the following resources if they occur on the tract:

A. Stream channels, floodplains, wetlands, swales, springs, and other lowland areas, including adjacent buffer areas which may be required to insure their protection.

B. Areas where precipitation is most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.

C. Moderate to steep slopes, particularly those adjoining water courses and ponds, where disturbance and resulting soil erosion and sedimentation could be detrimental to water quality.

D. Healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.

E. Hedgerows, groups of trees, large individual trees of botanical significance, and other vegetation representing the tract's rural past.

F. Significant natural areas of species listed as endangered, threatened, or of special concern, such as those listed in the Pennsylvania Natural Diversity Inventory.

G. Historic structures and sites.

H. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic views as seen from public roads (particularly those with historic features).

I. Existing trails connecting the tract to other locations in the Borough.

1. Other Design Considerations. The configuration of proposed

Greenway Lands set aside for common use in major subdivisions shall comply with the following standards:

A. They shall be free of all structures except historic buildings, stone walls, structures related to greenway uses and improvements as specified in Section 402.

B. They shall generally not include parcels smaller than one acre, have a length-to-width ratio of less than 6-1, or be less than 50 feet in width, except for such lands specifically designed as neighborhood greens, playing fields, trail links, or access corridors.

C. They shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe and convenient pedestrian access to Greenway Land.

D. They shall be suitable for recreational uses to the extent deemed necessary by the Borough, without interfering with adjacent dwelling units, parking, driveways, and roads.

E. They shall be interconnected wherever possible to provide a continuous network of greenway lands within and adjoining the subdivision.

F. They shall provide buffers to adjoining parks, preserves or other protected lands.

G. They shall provide for pedestrian pathways for use by the residents of the subdivision. Consideration shall be given to providing for public access on such trails if they are linked to other publicly-accessible pathway systems within the Borough. Provisions should be made for access to the Greenway Lands, as required for land management and emergency purposes.

H. They shall be undivided by public or private streets, except where necessary for proper traffic circulation.

I. They shall be suitably landscaped either by retaining existing natural cover and wooded areas and / or according to a landscaping plan to protect Greenway resources.

J. They shall be made subject to such agreement with the Borough and such conservation easements duly recorded in the office of the Luzerne County Recorder of Deeds as may be required by the

Borough for the purpose of preserving the common open space for such uses.

K. They shall be generally consistent with the Borough's Comprehensive Plan, if such plan exists at the time of plan submittal, and the Luzerne/Lackawanna Comprehensive Plan.

2. Ownership and Maintenance. Applicants shall demonstrate compliance with greenway ownership and maintenance standards of Section 708 of this Ordinance. A maintenance agreement for the greenways must be submitted that designates ownership and all maintenance responsibilities of the greenways to the developer or a homeowners association.

SECTION 404. RESOURCE CONSERVATION STANDARDS FOR SITE PREPARATION AND CLEAN-UP.

1. Monitoring Construction Activities. The Borough shall have the right to monitor on-site construction activities relative to the preservation and protection of historic structures and to the possible discovery of unrecorded archeological resources.

2. Conservation Practices During Site Preparation and Clean-Up.

A. Protection of Vegetation from Mechanical Injury. Where earthwork, grading, or construction activities will take place in or adjacent to woodlands, open fields, or other significant vegetation or site features, the Borough may require that the limit of disturbance be delineated and vegetation protected through installation of temporary fencing or other approved measures. Such fencing shall be installed prior to commencement of construction and shall be maintained during construction.

B. Protection During Clean-up. Fences and barriers placed around woody vegetation during construction shall be removed if they could impede the growth and maintenance of such vegetation.

C. Protection of Vegetation from Grading Change. Grade changes to occur at any location of the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.

D. Protection of Vegetation from Excavations.

i. When digging trenches for utility lines or similar uses, disturbances to the root zones of all woody vegetation shall be minimized.

ii. If trenches must be excavated in the root zone, all disturbed roots shall be cut as cleanly as possible. The trench shall be backfilled as quickly as possible, avoiding soil compaction. No more than 50 linear feet of trench shall be open at the end of any workday.

E. Protection of Topsoil.

i. Prior to any grading operations all topsoil in the area to be disturbed shall be removed from the area and stored at an alternate location on site. All removed topsoil shall be re-used on site wherever possible.

ii. Topsoil removed shall be redistributed and stabilized following the establishment of required grades for a project or project phase. All exposed earth surfaces shall be stabilized in accordance with the Pennsylvania Erosion and Sediment Pollution Control Manual, as amended.

iii. Grading and earthmoving operations shall be scheduled to minimize site disturbance during the period from October 15th to April 15th when revegetation of exposed ground surfaces is difficult.

PART 5

PLAN CONTENT REQUIREMENTS

SECTION 501. SKETCH PLAN.

1. When a Sketch Plan is submitted to the Borough it will serve as a basis for an informal discussion with the Planning Commission as to the intended use and arrangement of a proposed subdivision or land development.

2. The applicant may submit whatever information the applicant deems useful; however, the following minimum items are deemed necessary for review:

- A. Name and address of owner, applicant and subdivider or developer;
- B. Name and address of the applicant's engineer, surveyor, planner, architect, or landscape architect, if applicable;
- C. Scale of sketch and graphic scale, and be clearly titled, "Sketch Plan";
- D. Approximate tract boundaries;
- E. North arrow;
- F. Location map, zoning district, and floodplains and wetlands, if any;
- G. Streets on and adjacent to the tract;
- H. Topographical and physical features, including existing structures, wooded areas, hedgerows and other significant vegetation, steep slopes, soil types, ponds, streams within 50 feet of the tract, and existing rights-of-way and easements;
- I. Schematic layout indicating a general concept for land conservation and development; and
- J. In the case of land development plans, proposed general layout, including building locations, parking lots, driveways, water supply, sewer service, general stormwater management design and open space.

SECTION 502. PRELIMINARY PLAN REQUIREMENTS. A detailed preliminary plan shall contain the following:

1. Drafting Standards

- A. All plans shall be drawn to the scale no smaller than 1"=100', unless otherwise approved by Borough Council.
- B. All dimensions shall be set in feet and decimal points, bearings in degrees, minutes and seconds and be free of closure errors.
- C. Each plan sheet shall be numbered and shall show its relationship to the total number of sheets.
- D. All plans shall bear an adequate legend to indicate clearly which features are existing and which are proposed.
- E. All plans submitted shall be made on sheets 24"x 36".
- F. Where it is necessary to use more than one sheet for a plan, the layout shall be such that any lot shall be complete on one plan and no lot shall be split on two sheets. In such cases, a master plan shall be submitted as part of the application.
- G. A north arrow, graphic scale, and written scale shall be required on all plans.
- H. A title block shall be required on all plans with the name of the proposed development, title of the specific plan, date of the original submission, date of all subsequent submissions, the name of the plan preparer and municipalities in which the development is to be located. The title the specific plan shall conform to the name of the grantee(s) on the deed to the subject property.

2. Area wide Context Plan – Major Subdivisions Only. A plan showing the location of the proposed subdivision within its neighborhood context shall be submitted for all major subdivisions. Such plans shall be at a scale of not less than 1" = 2000' and no greater than 1" = 1000', and shall show the relationship of the subject property to natural and man-made features that exist in the immediate neighborhood, such as streams, wetlands, ridge lines, public roads, utility easements and rights of ways, public land, and land protected under conservation easements.

3. Existing Resources and Site Analysis Plan – Major Subdivisions Only. An Existing Resources and Site Analysis Plan shall be prepared for all major subdivisions to provide the developer and the Borough with a comprehensive analysis of existing site conditions. The Borough shall review the plan to assess its accuracy, thoroughness, and the manner in which the

information generated has been applied to the design of the subdivision or land development. The following information shall be included in a Plan:

- A. Geologic formations, based on available published information or more detailed data obtained by the applicant.
- B. Topography, the contour line intervals of which shall not be less detailed than five feet for hilly sites, and two feet for gently rolling or relatively flat sites. The determination of appropriate contour intervals shall be made by the Borough. Slopes exceeding 15% shall be clearly indicated. Topography for major subdivisions shall be prepared by a professional land surveyor from an actual field survey of the site or from aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
- C. The location and delineation of ponds, streams, and natural drainage swales, as well as floodplain and wetland areas.
- D. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Soil Conservation Service in the published soil survey for Luzerne County, Pennsylvania.
- E. Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, open fields, hedgerows, woodlands and wetlands. The actual canopy line of existing trees and woodlands shall be shown. Vegetative types shall be described by plant community, relative age and condition.
- F. Ridge lines and delineation of watersheds on the property shall be identified.
- G. The location and dimensions of all existing streets, roads, buildings, utilities, and other man-made improvements.
- H. Locations of all historically significant sites or structures on the tract and on any abutting tract.
- I. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
- J. All easements and other encumbrances of property which are or have been filed of record with the Recorder of Deeds of Luzerne County shall be shown on the plan.

4. Preliminary Resource Conservation Plan – Major Subdivision Only.

A. A Preliminary Resource Conservation Plan shall be prepared to categorize the impacts of the proposed subdivision on those resources shown on the Existing Resources and Site Analysis Plan, as required under Section 502. All proposed improvements, including but not limited to grading, fill, streets, buildings, utilities and stormwater detention facilities, as proposed in the other Preliminary Plan documents, shall be taken into account in preparing the Preliminary Resource Conservation Plan.

B. Using the Existing Resources and Site Analysis Plan as a base map, impact areas shall be mapped according to the following categories:

- i. Primary impact areas, i.e., areas directly impacted by the proposed subdivision;
- ii. Secondary impact areas, i.e., areas in proximity to primary areas which may be impacted; and
- iii. Designated protected areas, either to be included in a proposed greenway or an equivalent designation such as dedication of a neighborhood park site.

C. The applicant shall submit an accompanying Resource Assessment Report divided into the following sections:

- i. Description of existing resources, as documented in Section 502;
- ii. Impacts of the proposed subdivision on existing resources, correlated to the areas depicted in the Final Resource Conservation Plan; and
- iii. Measures taken to minimize and control such impacts both during and following the period of site disturbance and construction. The qualifications and experience of the preparer of this report shall be provided.

5. Design Process for Major Subdivisions. All preliminary plans shall include documentation of proposed Greenway Lands, residential dwellings, streets and lot lines as follows:

A. Delineation of Greenway Lands. Proposed Greenway Lands

shall be designated using the Existing Resources and Conditions Plan as a base map and complying with Section 402 and 403 of this Ordinance. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for Greenway Lands on the tract.

B. Location of Dwelling Units. Dwelling units shall be tentatively located, using the proposed Greenway Lands as a base map as well as other relevant data on the Existing Resources and Conditions Plan such as topography and soils. Dwelling units shall be located no closer than 25 feet from Greenway Lands taking into consideration the potential negative impacts of residential development on adjoining Greenway Lands as well as the potential positive benefits of such locations to provide attractive views and visual settings for dwellings.

C. Alignment of Streets. Upon designating dwellings, a street plan shall be designed to provide vehicular access to each dwelling unit, complying with the standards under Part 6 of this Ordinance and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed Greenway Lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the Borough and to facilitate access to and from dwellings in different parts of the tract (and adjoining parcels).

D. Design of Lot Lines. Lot lines are drawn as required to delineate the boundaries of individual residential lots.

6. Preliminary Subdivision or Plot Plan. The plan shall include the following:

A. A location map for the purpose of locating the site to be subdivided or developed, at a scale of not less than 1,000 feet to the inch, showing the relation of the tract to adjoining property and to all streets and municipal boundaries existing within 1,000 feet of any part of the property proposed to be subdivided or developed.

B. A map or series of maps, prepared under Section 502(1), above, with accompanying narrative as needed, showing the following:

- i. Proposed subdivision or land development name or identifying title and deed book and page reference(s) applicable to the subject property.
- ii. The Property Identification Number (PIN).
- iii. A certification block containing the name and address of the landowner and subdivider of the tract or of his authorized agent, if any. A copy of the deed for the property must be submitted to verify ownership.
- iv. Name, license number, signature, seal and address of the registered surveyor responsible for the plan.
- v. Zoning information including: applicable zoning district, lot area and bulk regulations, minimum building setbacks, proof of any variance, special exception or conditional use which may have been granted and any conditions imposed, and any zoning boundaries that traverse or are within 100 feet of the tract.
- vi. Tract boundaries with bearings and distances and proposed lot line locations with distances. The gross tract acreage and adjusted tract area shall be shown. For each lot created, including areas to be dedicated to public use, the lot area and minimum lot area shall be indicated.
- vii. Original date of preparation, revision dates, north arrow, graphic scale and written scale.
- viii. The names of all owners of all adjacent lands with appropriate deed references and tax parcel identifications.
- ix. The names, locations and dimensions of all existing street right-of ways and paving widths, including those approved or recorded but not constructed, existing gas, electric, cable, telephone and petroleum transmission lines, water courses, buildings, structures, sources of water supply, water mains, sewer mains, easements, trails and any other significant features, man-made and natural within the property proposed to be developed or subdivided and within 50 feet of the tract boundaries. Significant natural features shall include information shown on the Existing Resource and Site Analysis Plan.

x. Locations of all historically significant sites or structures on the tract and on any abutting tract.

xi. Location, if any, of all parks, playgrounds, and other areas dedicated or reserved for public use, with any conditions governing such use.

xii. A full plan of the development, showing the proposed lot layout with lot areas indicated in square feet and acres. Lots shall be numbered in a consecutive order with all lot line bearings and distances shown to demonstrate to the Borough how the proposed layout compares to zoning requirements.

xiii. Minimum building setback lines.

xiv. All existing and proposed easements and right-of-ways.

xv. When a tract is subdivided into parcels large enough to permit re-subdivision of the parcels, a sketch layout shall be included showing future potential subdivision of the parcels to ensure that subdivision may be accomplished in accord with current ordinances and with appropriate access. Submissions and review of the sketch plan described in this section shall not constitute approval of the future subdivision shown thereon.

xvi. The location of all percolation tests and test pits approved by the Borough Sewage Enforcement Officer and/or PA DEP on every proposed lot. Also existing and proposed individual on-lot water well locations must be shown.

xvii. Signature blocks for Freeland Borough Planning Commission, Borough Council, Borough Engineer, and Luzerne County Planning Commission shall be provided. Space must be provided for the signatures of the Chairperson and Secretary for each Board or Commission.

xviii. A note placed on the plan indicating where noncompliance occurs relative to zoning, subdivision, building, and other applicable Borough Ordinances, and a citation of the date and content of any decision concerning a special exception, variance, or conditional use and any request for a waiver.

xiv. Information on the ownership of all surrounding roadways (state, county, township and private).

7. Preliminary Land Development Plan. The plan shall include the following:

A. Historic resources, trails and significant natural features, including topography, areas of steep slopes, floodplains, wetland areas, wetland buffers, swales, rock outcroppings, vegetation, existing utilities, etc., as indicated on the Existing Conditions Plan.

B. Existing lot lines, proposed lot lines, existing and proposed easements / right-of-ways.

C. The location, width and tentative names of all proposed streets and street right-of-ways including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas.

D. The location of all existing and proposed stormwater management facilities. Final design of all stormwater management facilities must be completed on the preliminary plan.

E. Limit of disturbance line.

F. If any portion of the land to be subdivided or developed lies partly in another municipality or adjoins another municipality, the applicant shall submit information concerning the location and design of streets, layout and size of lots and provisions of public improvements on land within the adjoining municipalities. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of approval of this information by appropriate officials of the adjoining municipalities shall also be submitted to the Borough by the applicant.

G. Where the applicant proposes to install the improvements in phases, the applicant shall submit with the preliminary plan, pursuant to Section 508(4) of the MPC, a delineation of the proposed sections and a schedule of deadlines within which applications for final approval of each section are intended to be filed.

H. Typical street cross-section drawing(s) for all proposed streets shall be shown, including details relating to thickness, crowning,

construction techniques, driveway construction, and paving materials.

I. The location of proposed landscaping, plus locations of existing vegetation to be retained.

J. Signature blocks for the Freeland Borough Planning Commission, Borough Council and the Luzerne County Planning Commission shall be provided. Spaces for signatures by the Chairperson and Secretary of each Board or Commission must be included.

K. Profile sheets for all proposed streets and driveways within the tract shall be provided properly labeled and showing at a minimum the following information:

- i. Existing natural profile along the proposed centerline of each street.
- ii. Proposed finished grade of the centerline of each proposed street.
- iii. The length of all vertical curves and vertical sight distance provided at each vertical curve.
- iv. Existing and proposed underground sanitary sewer lines, manholes, water lines, electric, telephone, cable and gas lines.
- v. Existing and proposed storm water management facilities and drainage improvements.
- vi. The proposed speed limit and design speed of the proposed roadway.

L. The following data for the cartway edges (curb lines) and right-of-way lines of all recorded (except those which are to be vacated) and /or proposed streets and sidewalks within or abutting the property.

- i. The length (in feet and hundredths of a foot) of all straight lines and of the radius and the arc (or cord) of all curved lines (including curved lot lines).
- ii. The width (in feet) of the cartway, existing right-of-way and of the ultimate right-of-way, and (in degrees, minutes and

seconds) of the delta angle of all curved lines, including curved lot lines.

iii. The width, location, thickness and construction material for all sidewalks or footpaths to be provided.

M. A note must be on the plan stating that no construction shall occur within the right of way of any adjacent roadway unless the applicable Highway Occupancy Permit is obtained for the construction.

N. A plan showing details and specifications of street lights to be installed, together with the necessary contract for street light installation.

O. Final design of all stormwater management facilities.

P. Where off-site or central sewer service is to be provided, the final design & locations of all facilities, including, but not limited to, sewer mains (size, material and slope), manholes (with rim and invert elevations), backfill and bedding specifications, pumping stations, laterals and sewage treatment facilities.

Q. Where off-site or central water service or water supply is to be provided, the final design, location and size of water service facilities within the subdivision, shall be shown, including proposed well locations, water mains (size and material), storage tanks, reservoirs, pumps, backfill and bedding specifications, valves, fire hydrants, reducers, aquifer testing, water treatment methods and chemical handling methods. The plan shall contain a statement that the placement of fire hydrants and the components of the system have been reviewed by the Fire Chief and that the system complies with the firefighting methods and equipment utilized by the designated fire company for the Borough.

R. If any proposed or existing bridges are to be utilized in some way by the proposed project, the bridges must be approved by all agencies with jurisdiction thereof, such as the Pennsylvania Department of Environmental Protection, Department of Transportation and/or Luzerne County. Also, if any existing bridges are to be utilized, a structural certification of the bridge demonstrating its safety and maximum permissible load must be submitted to the Borough and must be completed by a certified structural engineer.

S. Proposed driveway locations and construction details must be shown on the plans.

T. A complete permit application for the following must be either submitted to or approved by the applicable review agency prior to preliminary approval:

i. A complete Sewage Facilities Planning Module Package containing all required items listed on the module checklist must be submitted to PA DEP for review.

ii. The National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with construction activities must be approved by the Luzerne Conservation District and/or PA DEP.

iii. All Waterway Encroachment and Obstruction permits must be approved by PA DEP or the US Army Corps of Engineers.

iv. All access and utility Highway Occupancy Permits must be approved by PennDOT for state highways or right-of-ways.

v. All access and utility Highway Occupancy Permits must be approved by Luzerne County for county roads or right-of-ways.

vi. PA Public Water Supply Permits must be approved by PA DEP.

vii. Water Quality Management Permits for Sewer Extension and Pump Stations must be approved by PA DEP.

W. Construction details for all required improvements must be shown on the plans.

V. An estimate of the cost to construct all improvements in the subdivision / land development by a registered engineer must be submitted to the Borough and approved by the Borough Engineer.

W. Individual on-lot grading plans must be provided for all lots in which any proposed grading is to take place on existing slopes that exceed 20%.

X. Existing and proposed contour lines at an interval of not more than 2 feet must be shown on the plans.

Y. Location and elevation of the datum to which contour elevations refer. Also, the location of the benchmark must be shown.

Z. A parking space calculation, if applicable, showing the number of parking spaces required by the Zoning Ordinance and the number of parking spaces proposed on the plan.

AA. All modification or waiver requests.

BB. The general purpose of the subdivision and/or land development.

CC. Wetland boundary lines, wetland buffer lines, stream buffer lines, 100 year floodplain lines and 100 year floodway lines.

DD. The PA one call system incorporated symbol, note and project reference number.

EE. The Americans with Disabilities Act of 1990 (ADA) disclaimer note.

FF. The location of all existing and proposed street markings and signs. The location of all street name signs, all stop signs, and all speed limit signs, at a minimum, must be shown on the plans.

GG. PA DOT Highway Occupancy Plans.

8. Groundwater Conservation Plan. A plan for the conservation of groundwater resources shall be submitted. The plan, at a minimum, shall comply with the standards and criteria contained in Section 401 of this Ordinance. The plan shall be comprised of a narrative with supporting calculations and drawings to fully explain the plan and its proposed implementation.

9. Preliminary Greenway Ownership and Management Plan. The boundaries, acreage, proposed ownership and maintenance standards of all proposed Greenway Lands shall be shown. This plan is required for all major subdivisions.

10. Proof of Ownership. A deed or agreement of sale evidencing that the applicant is the legal or equitable owner of the land to be subdivided or developed shall be submitted.

11. Title Report. The applicant shall provide a current title report prepared by a title insurance or title abstract company showing all easements and encumbrances of record regarding the property which is to be subdivided or developed.

12. Preliminary Engineering/Surveying Certification. A certification statement must be added to the plan and signed by the professional engineer or surveyor stating that the plans, to the best of his or her knowledge, are in compliance with all Ordinances of the Borough.

13. Stormwater Management and Erosion and Sedimentation Control Plans. Final plans for the management of stormwater runoff, including the control of erosion and sedimentation during the course of site preparation or any other land disturbance, shall be submitted. The plan shall, at minimum, comply with the standards, and criteria contained in Section 620, the Freeland Borough Stormwater Management Ordinance, PA Code Title 25 Chapter 102 and NPDES Permit Post Construction Stormwater Management Requirements. The plan shall be comprised of drawings, calculations, and accompanying narrative containing but not limited to the following:

- A. Existing condition information, including streams, swales, ridgelines, soils, vegetative conditions, and existing facilities, etc., shall be shown as on the Existing Conditions Plan.
- B. Proposed earthmoving, grading, permanent stormwater management facilities, and temporary erosion and sedimentation control facilities as shown on the Improvements Construction Plan.
- C. The narrative shall include a description of existing site characteristics, stormwater conditions and flow, and off-site considerations affecting existing or future conditions on the site. The narrative shall describe the nature of the proposed site development and improvements and shall demonstrate how the stormwater management system will meet the design standards and criteria outlined in Section 620 and the Freeland Stormwater Management Ordinance. Complete design calculations and construction specifications shall be included.
- D. Notation of ownership and responsibilities for maintenance of Stormwater Management structures and facilities.
- E. A suitable map of the total watershed (a U.S.G.S. quadrangle map is sufficient).

14. Greenway Ownership and Management Plan. Using the Preliminary Plan as a base map, the boundaries, acreage, and proposed

ownership of all proposed Greenway areas shall be shown. A narrative report shall also be prepared indicating how and by whom such Greenway Lands will be managed. This plan is required for all major subdivisions.

15. Landscape Plan. A landscape plan which meets all requirements of Section 625 shall be prepared by a landscape architect registered in the Commonwealth of Pennsylvania or another qualified professional deemed acceptable by the Borough.

16. Additional Approvals, Certificates and Documents

A. A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner(s) of the property, to the effect that the owner(s) consent to the subdivision or land development shown on the plan.

B. Certification of the engineer, land surveyor, landscape architect or land planner who prepared the plan that the plans are in conformity with zoning, building, subdivision and other applicable Borough Ordinances and Regulations. In any instance where such plans do not conform, evidence shall be presented that an exception, waiver or variance has been authorized. Certification blocks must be contained on all applicable plans as deemed appropriate by the Borough Engineer.

C. A Traffic Impact Study will be required to be submitted to and approved by the Borough in conformance with the standards outlined in Section 626 if the project meets the requirements for a study as outlined in Section 626(1).

D. A copy of the wetland delineation report for the entire parcel prepared by a qualified professional. If a wetland delineation report was completed more than five years prior to the initial complete submission to the Borough the report will not be accepted and a new report must be prepared.

E. A copy of the water system design calculations and aquifer tests that is required for the project, if applicable.

F. A copy any pressure sewer system design calculations, if applicable.

SECTION 503. FINAL PLAN. Final plans shall conform in all important details to the approved preliminary plans, including any conditions specified by Council. If the Stormwater Management Plan and Soil Erosion and Sediment Control Plan were approved during the preliminary plan review process, the plans do not need

to be re-submitted during the final plan process. A detailed final plan shall consist of and be prepared in accordance with the following:

1. Drafting Standards. All drafting standards as required in Section 502 shall apply.

2. Existing Resources and Site Analysis Plan. A plan as stipulated in Section 502 consistent with the terms of preliminary plan approval and modified as necessary to reflect the proposal for final approval.

3. Final Resource Conservation Plan.

A. This plan shall comply with all of the requirements for the Preliminary Resource Conservation Plan, as set forth in Section and 502 to reflect all proposed improvements described in the other Final Plan documents as required under Section 503 of this Ordinance.

B. The applicant must comply with Section 502(3) of this Ordinance.

4. Final Subdivision Plan. A plan that shall contain:

A. All information required on Sections 502(6) of this Ordinance.

B. Sufficient data to determine readily the location, bearing and length of every lot and boundary line and to produce such lines upon the ground, including all dimensions, angles, and bearings of the lines. The gross tract acreage and adjusted tract area shall be shown. For each lot created, including areas to be dedicated to public use, the lot area and minimum lot area shall be indicated.

C. For residential subdivisions, proposed driveway locations, if known, final names of all streets, as approved by the U.S. Postal Service, the regional fire departments and Luzerne County 911. Furthermore, all proposed house numbers as assigned by Council and Luzerne County 911 shall be shown. It is the responsibility of the applicant to submit the proposed road names to all required review agencies.

D. Permanent concrete control monuments and markers, as required by Section 616.

E. All existing and proposed easements and right of ways described by bearing and distance.

5. Final Land Development Plan. Final land development plans shall contain all the information required under Section 502(7) of this Ordinance.

6. Final Stormwater Management and Erosion and Sedimentation Control Plan. Final stormwater management and erosion and sedimentation control plans shall contain all the information required under Section 502(6) of this Ordinance.

7. Final Greenway Ownership and Management Plan. The boundaries, acreage, and proposed ownership of all proposed Greenway Lands shall be shown. A narrative report shall also be prepared indicating how and by whom such Greenway Lands will be managed.

8. Final Landscape Plan. A landscape plan which meets all requirements of Section 625 of this Ordinance shall be prepared by a landscape architect registered in the Commonwealth of Pennsylvania or another qualified professional deemed acceptable by the Borough.

9. Additional Approvals, Certificates and Documents.

A. A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner(s) of the property, to the effect that the owner(s) consent to the subdivision or land development shown on the Final Plan.

B. All offers of dedication of realty or structures and all declarations, easements and covenants governing the reservation and maintenance of undedicated open space, for the Final Plan shall be in such form as shall be satisfactory to Council.

C. A copy of such deed restrictions, easements, covenants and declarations which are to be imposed upon the property to comply with the Final Plan as approved by Council. All such documents shall be in such form as is satisfactory to Council.

D. If applicable, copies of the homeowners' association documents, sewage management programs, water supply and distribution management programs, documents creating and governing a private wastewater company and/or private water company.

E. Evidence of approval or waiver by proper Federal, State, or County authorities as may have been required to subdivide or develop the land as proposed in the Final Plan.

F. Certification of the engineer, land surveyor, landscape architect or land planner who prepared the plan that the plans are in

conformity with zoning, building, sanitation, subdivision and other applicable Borough Ordinances and Regulations. In any instance where such plans do not conform, evidence shall be presented that an exception or waiver has been authorized.

G. Evidence of approval of all required outside agency permits for the project.

H. A financial guarantee or an executed traffic improvement agreement for any and all traffic improvements as recommended by the approved Traffic Impact Study.

I. Financial Security for all required improvements.

J. An executed Improvement Agreement between the Developer and Council.

K. An executed Stormwater Facility Management Agreement between the Developer and Council.

L. Final payment of all required fees, including but not limited to, review fees, inspection fees, recreation fees and stormwater facility inspection fees.

M. All modification requests that were approved must be noted on the final plan. The note must include the section number, a brief description of the section, the actual modification that was granted and the date of the approval of the modification.

PART 6

DEVELOPMENT and DESIGN STANDARDS

SECTION 601. LAND AND USE REQUIREMENTS.

1. All proposed subdivisions and land developments shall comply with the Zoning Ordinance applicable to the land, and no parcel of land shall be created either by inclusion or exclusion from a proposed subdivision, which cannot be properly utilized for a permitted use under the existing zoning regulations or merged into a lot adjoining the tract.

2. The design of subdivisions and land development shall preserve, insofar as possible, the natural terrain, natural drainage, existing topsoil, and trees.

3. Land subject to hazards to life, health, or property shall not be subdivided for building purposes or developed, unless the hazards have been eliminated or unless the plans show adequate safeguard against them.

4. Wetlands, areas of hydric soils, and any land within the 100 year floodway as defined by the FEMA mapping, shall not be platted for residential development or designated for such other uses as may involve danger to the health, safety, or general welfare of the citizens except as permitted by the state and federal regulations.

5. All portions of a tract being developed shall be taken up in lots, streets, public lands or other proposed uses so that remnants of landlocked areas or lots of insufficient area or dimensions pursuant to the applicable provisions of the Freeland Borough Zoning Ordinance shall not be created.

SECTION 602. BLOCKS, LAYOUT.

1. The length, width, and shape of blocks shall be determined with due regard to:

- A. Provision of adequate sizes for buildings of the type proposed.
- B. Topography.
- C. Requirements for safe and convenient normal and emergency vehicular and pedestrian circulation, including the avoidance of unessential intersections with major public streets.
- D. Thoughtful and innovative design to create an attractive community.

2. There shall be no minimum or maximum requirements for length of blocks, except that the length proposed shall not result in inappropriate traffic patterns, unnecessary disturbance to topography or other natural constraints, or any other conditions deemed unsatisfactory or unsafe by Borough Council. In design of blocks longer than 650 feet, special consideration should be given to access for fire protection, whether by an easement for emergency access or by other acceptable means.

3. Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots are required along a major public street, or where prevented by the size, topographical conditions or other inherent conditions of property, in which case Borough Council may approve a single tier of lots.

SECTION 603. LOTS.

1. Environmental Self-Sufficiency.

A. Each new dwelling created within the Borough shall be individually self-sufficient for both water supply and sewage disposal, and that such systems shall be individually owned, maintained, and operated by the owners of each dwelling.

B. Every new lot created within the Borough shall be capable of supporting a well, an individual on-lot septic system, and an alternative site for an individual on-lot septic system in addition to the proposed use for the lot. Exceptions to this requirement may be made by Council only when such exceptions are clearly in the best interest of the Borough, such as when individual wells or septic systems are proposed to be located on suitable soils within any undivided open space in the subdivision, or when the lot is serviced by community water and sewage disposal.

2. General Standards.

A. The size, shape and orientation of lots shall be appropriate to the type of development and use contemplated. The average length to width ratio for new lots shall be no greater than 4-1 (with regard to flag lots, only the "flag" area and not the "pole" portion shall be required to meet this standard).

B. Insofar as practical, side lot lines shall be at right angles to straight public street lines or radial to curved public street lines.

C. Lot area and bulk regulations shall not be less than specified by the provisions of the Zoning Ordinance for the area in which the development is located.

D. Depth and width of lots intended for non-residential uses shall be adequate for the use proposed and sufficient to provide satisfactory space for a well and on-site sewage disposal (unless community services are provided or available), on-site parking, loading and unloading, setbacks and landscaping as required by the Zoning Ordinance.

E. If, after subdividing, there exists sub-standard remnants of land, they shall be incorporated in existing or proposed lots, dedicated to public use, or reserved and improved as a common area for recreation, if acceptable by Borough Council. Agreements to ensure compliance with this subsection for the remnants of land shall be approved by the Borough Solicitor.

F. No irregularly shaped lots shall be permitted.

3. Lot Frontage.

A. Minimum lot frontage, width, and area shall be controlled by the provisions of the Zoning Ordinance in effect at the time of submission of the Preliminary Plan.

B. All lots shall have direct access or access held in fee simple to a public or private street and shall have frontage as required by provisions of the Zoning Ordinance. Evidence of legal access must be provided.

C. Double or reverse frontage lots shall be avoided except where required to provide separation of residential development from major public streets or to overcome specific disadvantages of topography or orientation as noted in Section 602(3).

D. All residential reverse frontage lots shall have a rear yard with a minimum depth of 50 feet, measured in the shortest distance from the proposed dwelling unit to the ultimate right-of-way and shall, within such rear yard and immediately adjacent to the right-of-way, have a planting screen buffer of at least 25 feet in width, across which there shall be no right of access.

4. Building Setback Lines. The minimum building setback lines for a lot shall be as specified under the Zoning Ordinance for the zoning district in which the lot is located and as applicable under this Ordinance.

5. Wetland, Steam and Surface Water Buffer.

A. A 50 foot undisturbed buffer shall be provided around all wetland areas. This buffer shall be described in the deeds for the lots by bearing and distance.

B. A 50 foot undisturbed buffer shall be provided around all surface water areas such as lakes, ponds, springs, and the like. This buffer shall be described in the deeds for the lots by bearing and distance.

C. For all streams with mapped floodways there is to be no disturbance with the FEMA floodway line. For floodways of streams that are not shown on the FEMA mapping the floodway is assumed to be 50 feet from the top of the bank of the stream on both sides of the stream however a buffer zone of 75 feet is required from the top of the banks of all streams. There is to be no disturbance within the assumed floodway area or buffer area unless all required state and federal permits are obtained.

SECTION 604. STANDARDS FOR PUBLIC STREETS.

1. Proposed streets shall be properly related to such street plans or parts thereof as have been officially prepared and adopted by the Borough, including recorded subdivision plans and the Official Zoning Map of the Borough, and shall be classified according to their function.

2. Proposed streets shall further conform to such Borough, County, State and Federal road and highway plans and Traffic Impact Studies as have been prepared, adopted, and filed as prescribed by law.

3. When only a portion of a tract or single holding is the subject of a subdivision or land development application, a sketch layout as required in Section 501(2) shall be included for the balance of the tract.

4. Thoughtful and imaginative design of streets and their relationship to the arrangement and shape of the lots is required. An important element is the blending with topography to produce curvilinear design and moderate grades. The rectilinear design of streets and lots, involving long straight sections of streets, shall be avoided whenever possible, except in "neo-traditional" designs for new village-style developments.

5. The proposed public street system shall extend existing or recorded streets at the same or greater width, as determined by Borough Council, but in no case at less than the required minimum width.

6. Where, in the opinion of Borough Council, it is desirable to provide for public street access to an adjoining property, provision of a 50 foot right-of-way to be opened at the option of Borough Council, shall be made. Responsibility for street construction and dedication shall be on the developer of the adjacent property and may be required by Council. The length of such connecting rights-of-way shall be minimized by locating proposed streets as close to the subdivision perimeter as practicable.

7. New minor public streets shall be designed so as to discourage through traffic by the introduction of intersections with stop signs or a generally circuitous or indirect street pattern, but the developer shall give adequate consideration to provisions for the extension and continuation of major and collector streets into and from adjoining properties.

8. Where a development abuts and intends to use an unimproved street, the developer may be required by Borough Council to bear the cost of improving the existing unimproved street to Borough specifications to provide access by way of an improved street.

9. Wherever a development abuts or contains a major artery or public street, Borough Council may require restrictions of access to the major street by provision of reverse frontage lots.

10. The developer shall identify and describe on the plan the entire right-of-way as required by this Ordinance, or as much of the right-of-way that lies within the property, along all existing public streets that traverse or abut the property.

11. All roads shall be designed for a speed at least 10 mph greater than the proposed posting of the roadway.

12. All major subdivisions of more than 20 proposed lots or dwelling units shall have at least two access points. If two access points are not feasible based on the natural constraints of the property, the applicant must provide a secondary emergency ingress and egress. This access must be designed to accommodate the emergency vehicles of the fire department designated by the Borough to provide firefighting services within the Borough and the Freeland Police Department.

13. No more than two dwelling units shall be allowed to use a private drive or road until the access is improved to the standards of this Ordinance.

SECTION 605. WIDTH OF STREETS AND SHARED DRIVEWAYS.

1. The rights-of-way of all new proposed streets and lanes shall be a minimum of 50 feet.

2. The minimum cartway width of all new streets shall be as follows:

A. Single-Family Residential: 20 foot minimum paved cartway over a 28 foot 2A material subbase.

B. Multi-Family Residential, Commercial or Industrial Park: 30 foot minimum paved cartway between standard Penn Dot concrete curbs.

C. Shared driveway Serving a Maximum of Two Dwellings: They shall be located within a right-of-way at least 25 feet wide, and shall be not less than 15 feet in width. Concrete curbs are not required.

SECTION 606. GRADIENTS.

1. On all streets, lanes, and shared driveways, there shall be a minimum centerline grade of 1%, wherever practicable, to facilitate positive drainage.

2. Centerline grades shall not exceed the following:

A. Shared Driveways: 15%.

B. Local Residential Street (Serving Less than 30 Dwellings): 12%.

C. Collector street, Commercial or Multi-Family: 10%.

D. Street intersections and turnarounds of cul-de-sacs: 4%.

3. At all changes of public street grades where the algebraic difference exceeds one percent, vertical curves shall be provided to permit the following minimum sight distances, measured from a point 42 inches above the pavement to a point six inches above pavement:

A. Shared Driveway: 125 feet

B. Local Residential Street: 225 feet

C. Collector Street: 325 feet

SECTION 607. HORIZONTAL ALIGNMENT.

1. Whenever public street lines are deflected in excess of five degrees, connections shall be made by horizontal curves.

2. To ensure adequate sight distance, minimum centerline radii for horizontal curves shall be as follows:

Shared driveways:	50 feet
Local residential street:	230 feet
Collector street:	310 feet

3. A tangent of at least 100 feet shall be introduced between all reverse horizontal curves. PennDOT Design Manual #2 should be utilized for all designs.

SECTION 608. INTERSECTIONS.

1. Public streets shall intersect as nearly as possible at right angles, but in no event at less than an angle of 75 degrees.

2. No more than two streets shall intersect at the same point.

3. A public street intersecting another street shall either intersect directly opposite an opposing street, or shall be separated by at least 150 feet between centerlines, measured along the centerline of the street being intersected.

4. Intersections with major collector streets shall be located not less than 1,000 feet apart, measured from centerline to centerline, along the centerline of the major collector street.

5. Intersections shall be approached on all sides by a straight leveling area, the grade of which shall not exceed four percent within 35 feet of the intersection of the nearest right-of-way lines. For shared driveways, the minimum leveling distances shall be 10 feet from the intersection of the nearest right of way lines.

6. Public street edge of paving or curblines intersections shall be rounded by a tangent arc with a minimum radius of:

A. 25 feet for intersections involving only minor residential streets.

B. 30 feet for all intersections involving a minor collector street.

C. 35 feet for all intersections involving a major collector street.

7. Public street right-of-way lines shall be parallel to (concentric with) edge of paving or curblines arc at intersections.

8. A minimum clear sight triangle of 75 feet, as measured

from the centerline intersections of two streets, shall be provided at all intersections. No physical obstruction, planting, berm or grade shall obscure vision above a height of two feet in such triangle, as measured from the centerline of the intersecting street at a point 10 feet from the ridge of cartway of the intersecting street.

9. Minimum clear sight distances at all intersections shall be in accordance with PennDOT standards.

10. Wherever a portion of the line of such triangle occurs behind the building setback line, such portion shall be shown on the final plan of the development, and shall be considered the building setback line.

SECTION 609. CUL-DE-SAC STREETS.

1. A cul-de-sac shall not be approved wherever a through street of loop is practicable, except where the cul-de-sac is clearly the only practical design of the subdivision.

2. Cul-de-sacs permanently designed as such, which are public or private streets, shall not exceed 900 feet in length.

3. A cul-de-sac turnaround area shall be provided with a vehicular turnaround having a right-of-way diameter not less than 110 feet, and a cartway diameter not less than 90 feet. Where the subdivider contemplates future extension of the cul-de-sac due to phased construction of the development, a temporary turnaround without widening the right-of-way on the plat for recording, may be permitted by Borough Council.

4. Where the turnaround right-of-way of a cul-de-sac street approaches or abuts the tract boundary, a 50 foot right-of-way width shall be extended to or provided to permit future extension of the street at full width to the adjacent property, unless future extension of a cul-de-sac street is clearly impractical, unnecessary, or undesirable.

5. There shall be a distance of at least 15 feet between the edges of driveways entering onto the cul-de-sac.

SECTION 610. STREET CONSTRUCTION. All materials entering into the construction of streets and all methods of construction and installation shall be in strict accordance with the requirements and specifications of the Pennsylvania Department of Transportation, Publication 408, latest edition.

1. Drainage. Storm drainage pipes, inlets, underdrains, and headwalls shall be placed prior to the final grading of the cartway. All trench bedding and backfilling within a proposed Borough Right-of-Way or private road Right-of-Way

shall be in accordance with the latest PennDOT RC Standards for bedding and backfilling under a roadway. All drainage pipes shall have a minimum of 12 inches of cover over the top of the pipe, however, 18 inches is recommended.

2. Grading. Grading shall be completed to the full width of the right-of-way except where trees or other features are to be protected. The minimum roadway cross-slope shall be two percent and the minimum shoulder cross slope shall be four percent. No road embankment shall exceed a slope of two to one but a three to one slope shall be utilized if circumstances permit. Guide rails shall be provided where required in accordance with the standards set forth by the Pennsylvania Department of Transportation.

3. Subgrade. The subgrade within the limits of the proposed cartway shall be shaped to conform to the line, grade, and cross-section of the proposed cartway and shall be shall compacted as per Section 210, "Subgrade" of PennDOT Specifications. Backfill of trenches within the cartway and shoulder area shall be dry modified, mechanically tamped in uniform layers of not more than eight inches, thoroughly compacted, 95% dry volume, prior to application of the base course. Subgrade shall be sloped to correspond to the slope of the finished road surface. Before placing the base course, the subgrade shall be dressed with one inch of fine aggregate, if the native subgrade soil is determined to be unsuitable by the Borough Engineer.

3. Paving Specifications for roadways to be dedicated to the Borough.

A. Subbase Course. The sub-base course shall be constructed of stone aggregate thoroughly compacted to a depth of not less than eight inches PA DOT 2A Subbase. The materials and construction methods shall be in strict accordance with the requirements of Section 350 - "Subbase" of PennDOT Specifications.

B. Superpave Base Course. Base course shall consist of not less than four and one half inches, after compaction, of hot-mixed, hot-laid Superpave Asphalt Mixture Design, HMA Base Course 25.0 mm, 0.0 to < 0.3 million ESAL's, PG64-22. The materials and construction methods shall be in strict accordance with the requirements of Section 309 - "Superpave Asphalt Mixture Design, Standard Construction, HMA Base Course" of PennDOT Specifications. The base course shall be rolled with a vibratory roller to achieve a percent compaction between 88% and 97%.

C. Superpave Wearing Course. Surface course shall consist of constructing a wearing course of hot-mixed, hot-laid Superpave Asphalt Mixture Design, HMA Wearing Course 9.5 mm, 0.0 to < 0.3 million ESAL's, SRL-L on the above prepared base course to a

depth of not less than one and a half inches, after compaction. The materials and construction methods shall be in strict accordance with the requirements of Section 409 - "Superpave Mixture Design, Standard and RPS Construction of Plant-Mixed HMA Courses" of PennDOT Specifications. The bituminous surface course shall be rolled with a vibratory roller to achieve a percent compaction between 90% and 97%. The Borough may require that the final wearing course be withheld until the streets are ready to be offered for dedication to the Borough.

D. Shoulders. The roadway shoulders shall be constructed of stone aggregate thoroughly compacted to a total finished depth of not less than 14 inches PA DOT 2A Subbase. The shoulder depth shall be constructed in phases to remain on a level surface with the top coat of the adjacent roadway paving.

SECTION 611. PRIVATE STREETS. Private streets may be permitted by Council under the following circumstances:

1. There is a recorded agreement between the applicant and the Borough specifying that the street will not be offered for dedication and will not be accepted by the Borough unless constructed to Borough standards existing at the time of offer of dedication.
2. Lots fronting on private streets shall meet the requirements of the Zoning Ordinance with regard to lot width and setbacks.
3. All lots on private streets shall have the required frontage on the private street.
4. The design and construction of private streets shall be as described above in Sections 605 through 610 unless an alternative construction is approved by the Borough Council.
5. A private street maintenance agreement, acceptable to the Borough Solicitor, shall be incorporated into the deeds for all lots so served. A note with regard to the private street not being dedicated shall be placed on the title plan to be recorded, including language explaining school and bus transit service, along with mail delivery and garbage pickup.
6. A private street shall meet all other development and design standards as set forth in this Ordinance for public streets except as provided in Section 611(4) above.

SECTION 612. DRIVEWAYS.

1. Private driveways shall be provided for all residences and shall provide safe access to Borough and State streets, eliminate problems of stormwater runoff and assure sufficient area for and access to off-street parking.

2. Shared driveways may be permitted for use by a maximum of two adjacent lots, each of which shall have the required street frontage for the applicable zoning district or as required for interior lots. An ownership and maintenance agreement for the driveway, approved by the Borough Solicitor, shall be required. Standards for shared driveways are contained in Section 605 through 610 above unless an alternative construction is approved by Borough Council. A profile of the proposed shared driveway centerline and a proposed cross-section must be shown on the plans.

3. No building permit will be issued for a new dwelling without the owner first obtaining a driveway permit.

4. Plans. A plan shall be submitted with each application for a driveway application which shall include at least the following:

A. Site plan of the driveway within 25 feet of the public right-of-way and 25 feet to each side of the centerline of the driveway.

B. Profile of the driveway with existing and proposed grading within the area of the site plan and the existing or proposed public street.

5. Unobstructed sight distance. No permit shall be issued for any driveway, nor shall any driveway be constructed whereon the sight distance from a point 10 feet from the edge of the cartway or the public street upon which the driveway opens is less than the minimum requirements of the PA Department of Transportation in either direction with respect to the view of oncoming traffic.

6. Driveways shall be graded so that, wherever possible, surface drainage will be discharged to the owner's property; otherwise, adequately sized pipes, inlets, or headwalls shall be installed and gutter improvements shall be made to direct surface drainage into the street drainage system and not onto the paving of the intersected street.

7. Driveways shall be paved within the right-of-way of the public street.

A. Grade. The driveway within the legal right-of-way of any Borough, County or State street shall not exceed a grade of five percent unless approved by Borough Council. The remaining driveway beyond the right-of-way shall not exceed a grade of 15%.

B. Material. The driveway within the legal right-of-way shall be constructed with a base course of 2A material (or approved equal) compacted to four inches and shall be surfaced with a minimum of one and one half inches of Superpave 9.5 mm wearing surface or approved equal. The remaining portion of the driveway shall be constructed of a minimum of four inches of compacted No. 3 stone or 2A material (or paved as required within the right of way).

C. Width. No driveway shall be less than 12 feet wide within the limits of the legal right-of-way.

D. Drainage. The gutter line, wherever possible, shall be maintained as a paved swale and shall have a minimum depth of four inches and a minimum width of 24 inches.

E. Culvert Requirement. Where required by Borough Council, culverts or pipes shall be installed under driveways to provide unobstructed flow of water in swales and shall be approved by the Borough Engineer. The minimum culvert size to be used is to be 15 inches in diameter or twin 12 inch diameter culverts. Cover shall be installed over the pipe in accordance with manufactures specifications with one foot of cover to be used as a minimum (although one and one-half feet recommended). Either a flair end section or headwall is recommended at both ends of the culvert. Drainage calculations must be provided for all driveway culverts.

SECTION 613. SIDEWALKS. Concrete Sidewalks are required for pedestrian circulation. Sidewalks shall meet the following requirements.

1. Sidewalks shall be a minimum of four feet in width.
2. Where required, pathway rights-of-way shall be a minimum of 10 feet in width and may be located at the discretion of Council along the rear or side property lines.
3. Additional sidewalk locations and paths may be required along heavily traveled streets and in the vicinity of schools and public buildings.
4. Maintenance of sidewalks shall be the responsibility of individual property owner for the portion of the sidewalk that fronts their property. This maintenance responsibility must be noted on the final plan.
5. It is the responsibility of the developer to construct the sidewalks in accordance with the requirements for all improvements as outlined in this Ordinance.

SECTION 614. CONCRETE CURBS.

1. Concrete Curbs are required wherever a sidewalk needs to be installed.
2. Vertical curbs shall be PennDOT standard vertical curb.
3. All materials entering into the construction of curbs and the method of construction and installation shall be in strict accordance with PennDOT Specifications, Publication 408, latest edition.

SECTION 615. STREET NAMES AND TRAFFIC SIGNS.

It is the responsibility of the applicant to ensure that all proposed street names are acceptable to Freeland Borough and Luzerne County 911 prior to final plan approval.

All applicable traffic and street name signs to ensure safe traffic or pedestrian circulation are required to be installed by the developer and are to be included in the financial guarantee for the project. All traffic signs shall meet the most current requirements of PA DOT.

All proposed stop, street name, and speed limit sign locations and specifications must be included on the plans.

SECTION 616. MONUMENTS AND MARKERS. Monuments and markers shall be placed so that the center, scored, or marked point shall coincide exactly with the intersection of the lines being marked and shall conform to the following:

1. Monuments.

A. Monuments shall consist of either:

- i. Solid steel rods not less than one inch in diameter and not less than 36 inches in length (preferably 42" to 48").
- ii. A two inch (inside diameter) galvanized pipe filled with concrete at least 36 inches in length (preferably 42" to 48").
- iii. A concrete cylinder four inches in diameter and at least 36 inches in length (preferably 42 to 48").
- iv. Other types approved by Borough Council.

B. Monuments shall be set flush with the finish grade of the surrounding ground.

C. All monuments shall be placed under the direction of a Registered Professional Land Surveyor who will take full responsibility for their accuracy and placement.

D. Monuments shall be placed as follows:

i. At all exterior property comers where permanent corners do not exist at the time of the perimeter survey. (Existing permanent corners shall not be removed or replaced but shall be noted on the plan as existing and described.)

ii. One monument for every ten lots proposed shall be placed at street intersections and intersections of rear lot lines, the location of which shall be proposed by the developer and approved by the Borough. An adequate number of monuments shall be provided so that in no case shall the distance between monuments exceed 1000 feet.

2. Markers.

A. Lot markers shall consist of either:

i. Solid steel rods not less than three-quarters inch in diameter and not less than 24 inches in length.

ii. Steel pipes not less than three-quarters (3/4) inch in diameter and not less than 24 inches in length.

iii. Other types approved by Borough Council.

B. Markers normally shall be set two inches above the finish grade of the surrounding ground.

C. All markers shall be placed under the direction of a registered professional land surveyor who will take full responsibility for their accuracy and placement.

D. Markers shall not be placed until road grading has been completed.

E. Lot markers shall be placed as follows:

i. At all points where lot lines intersect street right-of-way lines.

- ii. At all points where lot lines intersect exterior property lines.
- iii. At all interior lot corners.
- iv. At such other lot corners and locations as the Borough may direct.

SECTION 617. FIRE HYDRANTS. Fire hydrants must be installed as an integral part of any public or community water supply system and placed no more than 650 feet apart. For major subdivisions and other land developments not connected to a public or community water supply system, Borough Council may require that adequate provision be made for fire protection. To assure adequate quantities of water, all water distribution systems shall meet, at a minimum, the requirements of the National Fire Protection Association as more fully described in the Association's publication entitled, Fire Protection Handbook, Thirteenth Edition 1969, Section 13 – Water Supplies and Services. The Borough designated fire company shall be consulted to determine the appropriate type of fire hydrant and the proper placement of the required minimum number of fire hydrants.

SECTION 618. WATER SUPPLY.

1. If deemed feasible by Borough Council, subdivisions and land developments shall connect to a central water system if any exist in the project area and the Developer shall provide the water supply systems, meeting the requirements of the water system owner, to the Borough for review.

2. All water systems shall be designed and certified by a registered professional engineer or other individual otherwise certified for such design work and all systems shall be designed in accordance with all applicable federal, state, and local standards. Unless otherwise specified by this Ordinance all water system design is to conform to the latest edition of the PA DEP Public Water Supply Design Manual and PA Code, Title 25, Chapter 109.

3. When a subdivision or land development cannot connect to an existing central water system acceptable locations for on-lot water systems shall be shown on the plans and shall be constructed in accordance with the regulations set forth by PA DEP. Aquifer testing for major subdivisions and land developments may be required by the Planning Commission or Borough Council in consultation with the Borough Engineer if the proposed project is in proximity to areas of known groundwater contamination or inadequate yields of potable water supplies. Aquifer Tests shall be required for all new developments in which the developer plans to construct, operate or substantially modify a water system which will serve 15 new service connections, 25 year-round residents or the development involves the construction of 15 or more individual on-lot water

wells. All aquifer testing to be in conformance with the methods and requirements outlined in the latest edition of the PA DEP Public Water Supply Manual. Prior to the submittal of a preliminary plan the developer or developers' engineer/geologist should contact the Borough to discuss the need and scope of the testing that may be required.

4. Design calculations and testing results for all proposed water facilities shown on the plan must be submitted to the Borough for review and approval.

5. Evidence must be submitted to the Borough prior to final approval that the water supplier is either a certified public utility, a bona fide cooperative association of lot owners or a municipal corporation, authority or utility. If the water system is to be operated by the developer, the developer must submit evidence that the water system operator is qualified and certified to operate the system.

6. All water distribution systems to be designed in accordance with the requirements of the latest edition of the PA DEP Public Water Supply Manual. The standards include, but are not limited to, the following:

A. The pipe system shall be designed to maintain a minimum pressure of 20 psig at ground level at all points in the distribution system under all conditions of flow. The normal working pressure in the distribution system should be approximately 60 psig.

B. The minimum size of a water main which provides for fire protection and serving fire hydrants shall be six-inch diameter. The minimum size of a water main where fire protection is not provided shall be three-inch diameter.

C. Fire hydrants to be provided in accordance with Section 617.

D. An approved blow-off or flushing hydrant must be provided at dead ends and shall be sized to provide flows which will give a velocity of at least two and one-half fps in the main being flushed.

E. Shut-Off Valves must be placed at not more than 500 foot intervals in commercial districts and at not more than one block or 800 foot intervals in other areas of the distribution system.

F. Air relief valves should be used at high points in water mains in situations where flooding of the manhole or chamber is not anticipated.

G. Six inches of No. 2A material or approved equal must be used as bedding material and twelve inches of No. 2A material must be

used over the pipe and compacted in 8 inch lifts. If a water main is to be under a paved roadway No. 2A material must be used to the top of the trench.

H. Water mains and sewer mains must be separated horizontally by at least 10 feet unless it is not practical. If the separation distance cannot be maintained the water main must be laid in a separate trench on one side of the sewer with the bottom of the water main is at least 18 inches above the top of the sewer.

I. All water main crossings of storm drains or sewers must have a separation distance of 18 inches from the bottom of the water main to the top of the other pipe.

J. All underwater crossings of stream beds shall be located such that there will be a minimum of three feet of cover between the top of the pipe or encasement and the lowest point of the stream bed. All PA DEP permits must be obtained for the crossing.

SECTION 619. SANITARY SEWAGE CONVEYANCE AND DISPOSAL.

1. General Standards.

A. All subdivisions and land developments shall be served by an adequate sewage disposal and conveyance system; and, the Developer shall provide evidence documenting said adequacy.

B. All suppliers of non-municipally owned, sewer services shall be organized in such a fashion as may be required by the Pennsylvania Public Utility Commission; and, the Developer shall develop a Sewage Management Program which provides for operation, maintenance, and continuity of services in a manner which is acceptable to the Council. PA Code Title 25 Chapter 71.72 must be adhered to when developing a Sewage Management Program.

C. One copy of all correspondence, supporting documentation, applications for permits and certificates for operation submitted to the PA DEP and/or the Pennsylvania Public Utilities Commission (PA PUC) for the right to provide such services shall be forwarded to the Borough as a part of the public record. One copy of the permit or certificate of convenience issued by PA DEP or the PA PUC authorizing such services shall be forwarded upon receipt to the Borough as a part of the public record.

D. In the case of utilization of a publically owned or other existing central sewage disposal system the Developer shall submit, at the preliminary stage, a letter from the operator of such utility indicating the utility owner's willingness to supply service to the development and including a verification of the adequacy of the utility system to serve the proposed development. At the final approval stage, an executed agreement with the service supplier shall be submitted.

E. All required Certificates of Convenience, approvals and permits shall be obtained by the Developer or the utility owner as a condition of preliminary approval and shall be submitted with the Final Plan application.

F. All sewage disposal systems shall be designed and certified by a registered professional engineer or other individual otherwise certified for such design work; and, all systems shall be designed in accord with all applicable federal, state, and local standards.

G. Pressure testing of all collection/conveyance of all central sewage disposal system lines shall be required. All such testing shall be conducted in accord with the procedures specified by the future owner of the line.

H. All sewage disposal systems shall be consistent with the Borough Sewage Facilities Plan and the PA DEP required sewage planning modules shall be submitted by the developer.

I. A minimum 20 feet wide easement must be provided for all proposed sewage conveyance lines to be dedicated to a third party sanitary sewer owner for all lines to be located outside of a Borough right of way.

J. A note must be located on the preliminary plan stating that as-built drawings will be provided to the Borough within six months after the completion of construction.

2. On-Lot Sewage Disposal.

A. Standards. All on-site sewage disposal systems shall comply with the applicable PA DEP standards, the Borough's Act 537 Plan, and all other applicable standards.

B. Site Suitability.

- i. All residential lots in developments proposing the use of on-site sewage disposal shall contain one area suitable for

such a disposal system with such areas indicated on the preliminary plan and final plan.

ii. Prior to any action on the preliminary plan by the Planning Commission, the applicant must document that all lots in subdivisions proposing on-site sewage disposal contain a suitable area as tested by the Borough SEO in accord with PA DEP requirements and this Ordinance; or, that all lots are already served by an adequate, existing sewage disposal system.

iii. Should the applicant propose the use of individual systems which do not require soil testing, documentation shall be provided that the affected lots are suitable for the proposed system. In addition, a note shall be placed on the preliminary plan and final plan detailing the type of system(s) proposed and stating that the affected lots have not been tested for a soil-based system.

3. Central Sewage Disposal System. In addition to the following standards, the Borough's Act 537 plan shall govern all central sewage disposal facilities, as defined by that document.

A. Public Sewage Disposal. All proposed developments shall connect to such system in accord with the requirements of the Borough Sewage Facilities Plan, the PA DEP, and the PAPUC.

B. Project System. If a central sewage conveyance system is not accessible and sewage disposal is to be furnished on a project basis, the applicant shall, upon submission of the subdivision or land development plan, submit written evidence that he has complied with all Borough, County, and State regulations, and that the proposed system to be installed meets the requirements of the PA DEP and any other applicable regulations.

i. All central sewage disposal systems shall be consistent with the sewage feasibility studies and plans of the Borough.

ii. All sewage collection and treatment facilities shall be designed and constructed in accordance with regulations and requirements of the future system's owner, PA DEP and all applicable Borough Ordinances; and shall meet the requirements of the Borough to ensure compatibility if such system is at some point connected to a Borough owned system.

iii. All central sewage disposal systems shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development. The Borough may also require that any central sewage disposal system be designed and constructed to provide for service to adjacent or nearby properties. In such instances, developers shall be financially responsible solely for those costs associated with their individual development.

iv. All central sewage disposal systems using subsurface or land application of sewage effluent shall be designed and constructed in accord with applicable PA DEP standards; and, a suitable replacement area for the effluent disposal area shall be provided.

4. Community System Maintenance. In order to extend the useful life of community sewage disposal systems and minimize disposal system problems, the Developer shall, for all subdivisions or land developments using a community system, provide for system maintenance via the creation of a Property Owners Association. Such POA shall provide for the inspection of the community system each year and the pumping of septic tanks at intervals as required but not less once every three years from the date of the operation of each system. The POA shall file with the Borough an annual report detailing which systems have been inspected and pumped, showing receipts for same from a septage hauler disposing of the septage at a PA DEP licensed facility. Failure of the POA to comply with this Section 619(4) shall be considered a violation of this Ordinance.

SECTION 620. STORM WATER AND DRAINAGE CONTROL.

1. Storm Water Management Plans. All subdivisions and land developments shall comply with the requirements of the Freeland Borough Stormwater Management Ordinance.

2. Compliance with State Regulations. The Plan shall meet the intent of Section 13 of the Pennsylvania Storm Water Management Act and other applicable regulations to assure that the maximum rate of storm water runoff is no greater after development than prior to development activities; or, the quality, velocity and direction of storm water is managed in a manner which otherwise adequately protects health and property from possible injury. The plan shall also comply with all PA DOT and PA DEP requirements.

3. Plan. A storm water drainage and management plan shall be required for all subdivisions and all land developments (unless the project qualifies for an exemption as outlined in the Stormwater Ordinance) and shall be subject to the approval of Borough Council with the recommendation of the Borough's Engineer. The Plan shall show all existing surface drainage features and shall

include all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials, grades, and elevations. The developer shall submit the plan and all associated engineering calculations to the Planning Commission at the time of subdivision or land development preliminary plan submission.

4. Requirements.

A. The basic goal of the storm water management plan shall be to maximize the on-site infiltration of storm water and minimize the overall volume of storm water leaving the property after development; and, the plan shall incorporate best management practices to achieve this goal.

B. The Planning Commission shall, in cases where existing drainage problems, flooding or other factors relating to the public health, safety, and welfare and upon the recommendation of the Borough's Engineer, require that the proposed storm water control facilities be designed to more stringent storm frequency or other criteria; or, it shall require the provision of storm water control facilities in areas where no such facilities are proposed by the developer.

C. All proposed storm water drainage structures shall be indicated on the drainage plan submitted with the subdivision or land development plan and shall be considered "improvements" for the purposes of final subdivision approval. Construction materials shall comply with the latest PA DOT Publication 408 standards and the applicable PA DOT RC standards for construction.

D. Storm water or natural drainage water shall not be diverted to overload existing drainage systems, or create flooding or the need for additional storm water management or drainage facilities on other properties without the written consent of the owners of such properties and the provision by the developer of facilities to control the storm water or drainage.

E. Where a subdivision is traversed by a natural drainage way or channel, the developer shall reserve a drainage easement conforming substantially with the line of such drainage way or channel, and of such width as determined by the Planning Commission adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, maintaining, improving, or protecting such drainage facilities. A drainage easement shall also be so provided for all proposed storm water control facilities.

F. Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement of not less than 50 feet on each side of the stream from each stream bank, or such additional width as will be adequate to preserve the unimpeded flow of the watercourse.

G. In no case shall any pipe system of less than 18 inches be installed underneath a street or driveway, and all pipes shall be of a plastic, PVC, concrete or other material of an equal or greater useful life, meeting the requirements of PA DOT Publication 408, latest edition.

H. Drainage structures that are located on State Highway right-of-ways shall be approved by the Pennsylvania Department of Transportation; and, a letter from that agency indicating such approval shall be directed to the Borough prior to final stormwater management plan approval.

I. Lots shall be laid out and graded to prevent cross lot drainage and to encourage drainage away from proposed building areas.

J. Drainage easements of a minimum of 10 feet in width shall be provided on each side of all side and rear lot lines and adjacent to street rights-of-way as required by the storm water drainage and management plan. A note must be added to the plan demonstrating compliance with this Section.

K. Paved street shoulders, gutters, and drainage swales and rip/rap of drainage swales may be required to provide for adequate storm water management.

L. Drainage pipes shall have a minimum slope of one-half percent.

M. All open ended pipe must be fitted with concrete end walls or prefabricated end sections. All end walls, end sections or inlets shall be constructed and installed in accordance with PennDOT standards.

N. Manholes or inlets shall be used at all changes in horizontal alignment, at changes in vertical alignment and at all pipe junctions. No run of pipe shall exceed 400 feet in length, without appropriate measures to provide cleanout. Inlets must be spaced at intervals to achieve desired capacity based on the methods outlined in PennDOT Design Manual 2.

O. All wet pond or retention basin designs must incorporate biological controls to control the West Nile Virus.

P. Anti-seep collars and an inner core of relatively impervious material (clay) must be provided under all stormwater detention basin berms. Watertight anti-seep collars shall be installed around discharge pipes at intervals not to exceed 24 feet and shall extend a minimum of two feet beyond the outside of the pipe.

Q. All inlets to have a sump of a minimum of one foot and shall have weep holes covered with geotextile fabric to provide complete drainage of the inlet. All inlets shall be constructed on a base of a minimum of 12 inches of 2A material.

5. Maintenance of Storm Water Control Facilities.

A. Maintenance of storm water control facilities, including easements between lots, shall be the responsibility of the owner of said facilities. A legally binding agreement shall be required between the owner and the Borough to provide for such maintenance and providing for inspections by the Borough. A sample agreement is located in the Appendix of the Freeland Borough Stormwater Management Ordinance.

B. In cases where a property owners association is created for the ownership, operation, and maintenance of common facilities, such property owners association shall be responsible for the maintenance of storm water control facilities; and, such maintenance shall be established in the deed covenants and restrictions.

C. When storm water management control facilities are located on an individual lot, and when such facilities are the responsibility of that landowner to maintain, a description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.

D. If the Borough determines at any time that any permanent storm water management control facility has been eliminated, altered, or improperly maintained, the owner of the storm water control facility shall be advised of the corrective measures required and given a reasonable period of time to take necessary action. If such action is not taken by the property owner, the Borough may cause the work to be done and lien all costs against the property.

6. Soil Erosion and Sedimentation Controls. All soil erosion and sedimentation control plans shall meet the specifications of and shall be approved by the Luzerne Conservation District and/or PA DEP. Said Plan shall comply with Commonwealth of Pennsylvania, Title 25, Chapter 102 Department of Environmental Protection regulations for soil erosion and sedimentation control. Erosion and sedimentation controls shall be installed according to the approved Plan and shall be maintained by the developer in proper functioning condition until stabilization of the area is completed as determined by the Luzerne Conservation District. Preliminary plan approval shall be conditioned on all required approvals and permits from the Luzerne County Conservation District and PA DEP.

SECTION 621. UTILITIES. All utility lines required to service the subdivision shall be planned in cooperation with the respective utility companies. A letter shall accompany the preliminary subdivision or land development plan stating that the utility plan has been reviewed by the applicable utility company and service will be available. All cables, wires, conduits, pipes, and lines servicing the development shall be subject to the requirements set forth in this Ordinance.

SECTION 622. UTILITY EASEMENTS. Easements shall be provided for all utilities including, but not limited to poles, wires, conduits, storm and sanitary sewers, water and heat mains, gas, electric power, telephone, cable television and roadway embankments.

1. Location and Width. With the exception of on-lot sewer laterals, utilities shall be located either within the public right-of-way or in easements centered on or adjacent to front, rear or side lot lines. No structures or trees shall be placed within such easements. Such easements shall be minimum of 20 feet in width.

2. Underground Installation. In all developments, unless otherwise permitted by Borough Council or utility companies, the electric, telephone and all other utility facilities shall be installed underground. All existing and proposed utilities shall be shown on the preliminary plan. Prior to final plan approval the developer shall be required to obtain a letter from each utility company providing service to the subdivision stating that it has entered into an agreement with the developer to provide for such a system. All underground utilities including laterals, service connections, etc. or provisions for the same shall be installed prior to the placing of the subbase material in areas where the utilities underlie the cartway.

3. Petroleum, Gas and Electric Transmission Lines.

A. Where any petroleum, petroleum products, natural gas or electric transmission line traverses a subdivision or land development the developer shall confer with the applicable

transmission or distribution company to determine the minimum distance which the company requires between each structure and the centerline of such transmission line. Prior to preliminary plan approval the developer shall be required to obtain a letter from the transmission or distribution company stating that it has entered into an agreement with the developer establishing an easement through the tract and stating any conditions on the use of the tract and the easement width.

B. Any company intending to install a petroleum, petroleum products or natural gas transmission line shall be required to construct such line on an easement at least 50 feet wide, and the line shall be located at the center of such easement. The installation shall comply with all applicable standards of the Pennsylvania Utilities Commission.

C. A minimum distance of 50 feet, measured from the edge of the easement, shall be required between any proposed dwelling unit and any petroleum, petroleum products or natural gas transmission line that traverses a subdivision.

SECTION 623. STREET LIGHTING. Street and parking lot lights may be required when considered necessary by Borough Council and shall be of such design and spacing as required by Borough Council.

SECTION 624. VEGETATION AND LANDSCAPING.

1. Plan Requirements. All areas of the site shall be included in the landscaping plan, and buffers, screening, and those areas immediately adjacent to buildings and walkways shall be given extra consideration. Landscape plans shall be submitted concurrently with all preliminary and final plans. Landscape plans shall be prepared by a landscape architect licensed and registered to practice by the Commonwealth of Pennsylvania or other person deemed qualified by the Borough. In addition to the information required by the other plan information provisions of this Ordinance, the following information shall be provided:

A. The preliminary landscape plan shall show the following:

i. Existing Features - The location and character of existing buildings; mature trees standing alone; approximate location of major specimen trees (24" or greater DBH) in any area of the site proposed for development; outer limits of tree masses and other existing vegetation; and, the location of floodplain, wetlands, and other natural features that may

affect the location of proposed streets, buildings, and landscape plantings.

ii. Proposed Landscaping- Location of all proposed landscaping; demarcation of existing vegetation "TO REMAIN" or "TO BE REMOVED" and the means of protecting existing vegetation during construction; and location of proposed buildings, paving, utilities, or other improvements.

B. The Final Landscape Plan shall show the following:

i. Location of all outside storage and trash receptacle areas.

ii. Sidewalks, berms, fences, walls, free-standing signs, and site lighting.

iii. All existing and proposed contours at an interval deemed adequate by the Borough to determine the relationship of planting and grading areas with slopes in excess of 3:1.

iv. Existing mature trees, woodland, and tree masses to remain.

v. Existing mature trees, woodland, and tree masses to be removed.

vi. Location of all proposed landscaping; including street trees, storm water basin landscaping, parking lot landscaping, property line buffers, and site element screen landscaping.

vii. A planting schedule listing the scientific and common name, size, quantity, and root condition of all proposed plants. This section does not require specific quantities, types of vegetation and minimum sizes. It is strongly encouraged to specify vegetation native to the area to ensure survival and low maintenance. Please note if plants are to serve as a buffer or a screen, an adequate density and minimum size (as determined by Council) must be provided to serve as a screen and/or buffer at the time of the planting.

viii. Planting details, including method of protecting existing vegetation, and landscape planting methods.

ix. Information in the form of notes or specifications concerning seeding, sodding, ground cover, mulching, and the like, etc.

x. A detailed cost estimate shall be submitted, showing the value of all proposed landscaping, including all labor and materials.

xi. All buffers and screening under the Zoning Ordinance, including a maintenance agreement of all proposed plantings which details a maintenance schedule, methods and the person(s) responsible for the maintenance.

SECTION 625. TRAFFIC IMPACT STUDY AND REQUIRED

IMPROVEMENTS. A Traffic Impact Study shall be required to be submitted to and approved by the Borough prior to preliminary plan approval in conformance with the standards outlined under this Section.

1. Criteria for the determination if a Traffic Impact Study is required.

A. A preliminary subdivision or land development application must include a traffic impact study if:

i. the proposed site access is expected to have an Average Daily Traffic (ADT) of 3,000 or more;

ii. During any one hour time period of any day of the week, the development is expected to generate either 100 or more new vehicle trips entering the development or 100 or more new vehicle trips exiting the development;

iii. A residential subdivision of one hundred or more dwelling units; or

iv. In the opinion of the Borough Engineer, the development is expected to have a significant impact on highway safety or traffic flow even though it does not meet (i), (ii) or (iii) above.

B. For purposes of determining the need for a traffic impact study, assume the total development will have access at only one location. Include all vehicle trips expected to be generated by the development based on full build out and occupancy of the entire tract of land available to be developed at that location including previously approved phases or dwelling units.

2. Preparation of a Traffic Impact Study.

A. General. When a traffic impact study is required, the applicant is responsible for assessing the overall impact that traffic generated by the proposed development would have on the transportation system in the surrounding area. The applicant is responsible for data collection efforts. The study shall be conducted under the supervision of a person who possesses a professional engineer's license issued by the Pennsylvania State Registration Board for Professional Engineers, who shall affix a seal to the study, or may be conducted by other persons authorized by law. Upon receipt of a traffic impact study, the Borough will review the applicant's assessment on whether capacity, safety or other enhancements are needed to mitigate traffic impacts.

B. Traffic Study Scope. A pre-application scoping meeting shall be held whenever a traffic impact study is required. The applicant must coordinate the scope of the traffic study with the Borough Planning Commission. The traffic study area must be approved by the Borough prior to traffic data collection. As a general rule if there are more than 100 new trips entering or exiting the last intersection in the study area, the next intersection must be added. Traffic impact study information that should be conveyed to the Borough must include a description of the proposed development and zoning, the development schedule and staging trip generation, study area and type, urban or rural area determination, analysis periods and times traffic adjustment factors, other projects within the study area, trip distribution and assignment required traffic counts, capacity and other required analyses, and acceptable methodologies to be used in the study.

C. Traffic impact study contents. The traffic impact study shall contain the following:

Overview. The traffic impact study shall identify the existing land use, zoning and transportation facilities at the site and its surrounding area.

- i. The traffic impact study shall include a description of the property, indicating its size, general terrain features, highway right-of-way lines, and identify the municipalities and counties within the study area.
- ii. The traffic impact study shall identify the roadways that provide access to the site.

iii. The limits of the study area shall be based on sound engineering judgment and an understanding of existing and future traffic conditions at the site and within the surrounding transportation network, and shall be defined at the scoping meeting or shortly thereafter.

iv. The traffic impact study shall describe the development including its function, size, and short and long term growth potential.

v. The traffic impact study shall identify the specific existing and proposed uses of the site as well as the current zoning categories.

vi. The traffic impact study shall include a drawing which shows the development within the site boundaries, including:

(a) Internal traffic circulation pattern,

(b) Existing and proposed parking,

(c) The size, location and type of existing and proposed improvements, buildings and building appurtenances, fuel pumps and drive-through facilities,

(d) Present and proposed building and land uses, and

(e) The location and orientation of existing and proposed access points.

vii. The traffic impact study shall describe the proposed development schedule and staging, including the anticipated opening date, the anticipated completion date for each major phase of development and the anticipated full build out completion date.

viii. The traffic impact study shall include a complete description of the existing and proposed land uses and zoning categories within the study area.

ix. The traffic impact study shall include a description of existing roadways, intersections and high volume driveways within the designated study area, including the geometries,

traffic signal permit drawings and improvements planned by government agencies or others.

D. Existing traffic conditions. The traffic impact study shall describe the data collection and analysis efforts, volume studies, capacity and level of service analyses, and other analyses which were completed for the roadways, intersections and high volume driveways within the designated study area, to reflect existing traffic conditions. The applicant or the Borough shall determine the location, time periods and methodologies to be used for data collection, studies and analyses.

i. The traffic impact study shall include figures or schematic drawings, in a form acceptable to the Borough depicting daily and peak hour traffic volumes within the study area.

(a) Turning movement and mainline volumes shall be provided for the roadway a.m., roadway p.m. and site-generated peak hour conditions, or as otherwise directed by the Borough after consultation with the applicant.

(b) ADT volumes shall be provided for the mainline roadway.

(c) Other daily and peak hour volumes may be required by the Borough after consultation with the applicant.

ii. The traffic impact study shall provide an assessment of the relative balance between traffic volumes and capacity within the study area for existing conditions during the appropriate peak hours, using techniques acceptable to the Borough. Based on the capacity analysis results, the study shall determine the current levels of service. The study shall also describe the typical operating conditions at each level of service.

iii. The traffic impact study shall evaluate the effectiveness of existing signal controls within the study area in terms of vehicle stops and delays, using techniques acceptable to the Borough.

iv. If directed by the Borough, the traffic impact study shall include turning lane and queue length studies within the study area, using techniques acceptable to the Borough, to

determine the need for auxiliary lanes, the required auxiliary lane lengths, and to evaluate alternative access locations at various distances from controlled intersections.

v. If directed by the Borough, the traffic impact study shall include gap studies within the study area, using techniques acceptable to the Borough to evaluate existing or proposed access locations where there is a heavy volume of traffic on the abutting major route, or a significant volume of left turns is expected from the site, or the exit would not be expected to qualify automatically for traffic signal control. Gap studies may identify whether there is a need for signal control or for additional access locations to reduce left turn volumes.

vi. If directed by the Borough, the traffic impact study shall include sight distance analyses, traffic signal warrant analyses, left-turn traffic signal phasing analyses, analyses of other needed traffic signal phasing or timing modifications, traffic signal corridor or network analyses, crash analyses, weaving analyses, and other studies and analyses within the study area, using techniques acceptable to the Borough.

E. Future traffic conditions without development. The traffic impact study shall describe the ability of the roadway network within the study area to accommodate future traffic without development for the ensuing five years beyond the opening date of the development, and other time periods as directed by the Borough.

i. The traffic impact study shall indicate the method and assumptions used to predict future traffic volumes so that the Borough can verify and approve the applicant's calculations. The traffic impact study shall use seasonal adjustment factors and annual base traffic growth factors from the Borough, the appropriate Metropolitan Planning Organization or Local Development District or other source acceptable to the Borough. The traffic impact study shall include the additional traffic volumes that are expected for other proposed developments within the study area, as directed by the Borough. Figures or schematic drawings depicting future traffic volumes shall be consistent with subsection Existing Traffic Conditions subsection (i) above, including locations and times.

ii. The traffic impact study shall describe the ability of the existing roadway system within the study area to accommodate future traffic without site development for the appropriate peak hours, using techniques approved by the Borough. If roadway improvements or modifications are programmed by government agencies with approved construction funding, or if improvements or modifications will be constructed by others in conjunction with issued permits, the traffic impact study may include these conditions in the capacity and level of service analyses.

iii. If directed by the Borough, the traffic impact study shall include other studies and analyses consistent with Existing Traffic Conditions subsections (iii) - (vi) to determine future traffic conditions without development within the study area.

F. Future traffic conditions with development. The traffic impact study shall describe the adequacy of the roadway network within the study area to accommodate future traffic for the ensuing five years beyond the opening date of the development, and other time periods as directed by the Borough, and as determined at the scoping meeting, where applicable.

i. The traffic impact study shall identify the amount of traffic generated by the site for the daily and appropriate peak hour conditions. The traffic impact study shall provide trip generation rates with documentation and justification acceptable to the Borough. The traffic impact study shall use sources acceptable to the Borough based on surveys of multiple sites with the same land use type and similar size as the proposed development.

ii. The traffic impact study shall identify the direction of approach for site generated traffic for the appropriate time periods. The traffic impact study shall identify the method and assumptions used so that the Borough can verify and approve the applicant's calculations.

iii. The traffic impact study shall describe the utilization of study area roadways by site generated traffic. The traffic impact study shall combine anticipated traffic volumes identified under subsection (i) with anticipated traffic volumes identified under Future Traffic Conditions Without Development under subsection (i) to describe mainline and turning movement volumes to future conditions with development.

iv. The traffic impact study shall include mainline and turning movement volumes for the appropriate time periods for the roadway network in the study area as well as for the development access points and internal circulation roadways that may impact access operations

v. The traffic impact study shall include a capacity analysis and levels of service in the study area for the appropriate peak hours for future conditions with development, using techniques approved by the Borough.

vi. If directed by the Borough, the traffic impact study shall include other studies and analyses consistent with Existing Traffic Conditions subsections (iii) and (vi) to determine future traffic conditions with development within the study area.

G. Recommended improvements. The traffic impact study shall compare the operating levels between anticipated conditions and identify mitigation that will provide future design year levels of service with the development which are no worse than future design year levels of service without the development, unless a waiver/modification is granted by Borough Council based on future design year conditions with development which are safe and within the range of acceptable operation.

i. For locations where the overall intersection delay increase is less than or equal to 10-seconds, mitigation of the intersection will not be required.

ii. For locations with a Marginal LOS Degradation such as a LOS A to a LOS B or a LOS B to a LOS C a waiver may be considered by Council.

iii. For locations where the level of service of the design year without the development is Level of Service F, the mitigation shall provide an estimated delay which will be no worse than the delay for the design year without the development.

iv. If a new intersection is being established to serve as access to the development, the intersection shall be designed to operate at Level of Service C or better in the future design year where rural conditions exist and at Level

of Service D or better in the future design year where urban conditions exist.

v. The traffic impact study shall include a description of proposed mitigation, arranged by location and type of mitigation.

(a) The mitigation may include projects programmed by the federal government, the state government, the county government, the municipality, the metropolitan planning organization or other governmental agency.

(b) The mitigation may include a proposal by the applicant to reimburse the Borough as part of a programmed Borough project, or to pay, in lieu of construction, the cost of all or a portion of the highway improvements which increased traffic arising from the development may necessitate. The Borough, in exercise of its engineering judgment will determine if the proposal is acceptable.

vi. The traffic impact study shall provide details on the location, nature and extent of remedies which will provide sufficient roadway capacity and operating levels within the study area. If signalization is a recommended remedy, the traffic impact study shall include a traffic signal warrant analysis in accordance with the latest addition of the MUTCD Chapter 4C. The final access design shall address both traffic flow and highway safety considerations to provide operational characteristics acceptable to both the Borough.

vii. The traffic impact study shall address how the access relates to internal site circulation and design.

viii. The traffic impact study applicant shall include capacity and level of service analyses and describe the anticipated results of the recommended mitigation, using techniques approved by the Borough.

ix. If directed by the Borough, the traffic impact study shall include other studies and analyses consistent with Existing Traffic Conditions subsections (iii) and (vi) to determine the anticipated effectiveness of the remedies.

H. Summary. The traffic impact study shall include a clear, concise

description of the study findings acceptable to the Borough. Plans for the development shall include recommended mitigation which will provide future design year levels of service with the development consistent with the requirements of subsection (C) above.

3. Required Traffic Improvements.

A. Purpose. In recognition of Sections 503(2)(ii) and 503(3) of the Pennsylvania Municipal Planning Code (PA MPC), this section is primarily intended to ensure that the streets bordering a subdivision or land development are coordinated and of such widths and grades and in such locations as deemed necessary by the Borough to accommodate expected traffic and to facilitate fire protection and to ensure that the access into and out of new developments is safe.

B. Process. This section shall be carried out through determinations of Borough Council based on recommendations of the Planning Commission, Borough Engineer, the Applicant, the PA DOT, Luzerne County and the Traffic impact Study itself.

C. On-site and Abutting Traffic Improvements. If, in the determination of Borough Council, there is a reasonable relationship between the need for an improvement to be constructed on the applicant's property or an improvement to be constructed on the property abutting the applicant's property necessary for the ingress or egress to the applicants property and the traffic expected from the new development, the applicant shall be required to complete the needed improvement or fund his/her fair share of the cost of such traffic improvement. These "on-site" improvements may include, but are not limited to, a new or upgraded traffic signal, land dedication to improve an abutting intersection, the re-alignment of a roadway, the widening of a roadway or the widening of a right of way.

D. Off-site Traffic Improvements. In accordance with the PA MPC the Borough shall not require an applicant to fund or complete a roadway improvement that is an "off-site" improvement unless Borough Council determines that such improvement is clearly essential for the physical safety of the residents of the proposed development (such as for emergency vehicle access).

E. Funding. In place of completing a required street improvement as a condition of final approval, an applicant may enter into a

legally binding traffic improvement agreement with the Borough for the applicant to fund the improvement, or his/her fair share of such improvement, as determined by Borough Council.

F. Accounting. Any such funds may be placed in escrow until such time as sufficient funds are available for a more comprehensive improvement, with interest being used towards the cost of the improvement.

PART 7

Improvement Construction and Guarantees and Open Land

SECTION 701. GENERAL. No project shall be considered to be in compliance with this Ordinance until the streets, parking facilities, storm drainage facilities, water and sewer facilities, lot line markers and survey monuments and all other required or proposed improvements have been installed under this Ordinance. No final plan shall be signed by Borough Council for recording in the Office of the Luzerne County Recorder of Deeds until:

1. All improvements required by this Ordinance are installed to the specifications contained in Part 6 of this Ordinance and other Borough requirements and such improvements are inspected by the Borough Engineer and certified by the applicant's engineer as complete and in compliance with this Ordinance; or

2. An Improvements Construction Guarantee under Section 704 and the Pa MPC has been accepted by Borough Council. Any approval granted by Borough Council for any improvement required by this Ordinance shall be for subdivision and land development approval purposes only and shall not constitute approval for dedication of any improvements to the Borough. For non-residential land developments in which no subdivision is to take place and all required improvements are to remain privately owned and maintained Borough Council may consider an alternate method of guaranteeing the proper construction of the improvements other than the specific methods listed in this Part. Alternate methods may include, but are not limited to, an ownership and maintenance agreement for all of the privately owned improvements acceptable to the Borough or a partial financial guarantee under Section 704 in an amount determined by the Borough to restore the subject property to pre-development conditions with respect to stormwater runoff, stabilization, topography and aesthetics.

SECTION 702. PENN DOT REQUIRED IMPROVEMENTS. An 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 §420 of the Act of June 1, 1945 (P.L. 1242, No.428) known as the "State Highway Law."

SECTION 703. SECTIONS OR PHASES. In cases where final plan approval is proposed in sections or phases, Borough Council may require the construction or guarantee of any and all development improvements required for the service or protection of any section or phase of the development proposed for final approval.

SECTION 704. IMPROVEMENT CONSTRUCTION GUARANTEES.

1. Acceptable Guarantees. The following are acceptable forms of improvement construction guarantees:

A. Surety Performance Bond - A security bond from a surety bonding company authorized to do business in the Commonwealth of Pennsylvania with an A or better rating by Standard and Poor's and approved by Borough Council. The bond shall be payable to Freeland Borough.

B. Escrow Account - A deposit of cash either with the Borough Treasurer or in escrow with a financial institution where the Borough is the signatory. The use of a financial institution other than the Borough's depository for establishing an escrow account shall be subject to approval by Borough Council.

C. Irrevocable Letter of Credit - A letter of credit provided by a developer from a financial institution or other reputable institution subject to the approval of Borough Council.

D. Other Forms - Other forms of collateral including, but not limited to, real estate mortgages as the Council may require or accept as part of the security.

E. Additional Requirements - The following requirements shall apply to the financial guarantees:

i. The funds of any guarantee shall be held in trust until released by Borough Council and may not be used or pledged by the developer as security in any other matter during that period.

ii. In the case of a failure on the part of the developer to complete improvements, the institution shall immediately make the funds available to Borough Council for use in the completion of those improvements approved as part of the final plan and as may be required to service any lots or dwelling units as determined by Council.

iii. The creditor shall guarantee funds in the amount required by this Ordinance.

iv. The guarantee shall not be withdrawn, or reduced in amount, until released by Council.

2. Amount of Security. 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 90 calendar days following the date scheduled for completion by the developer. Annually, Borough Council 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 calendar day after either the original date scheduled for completion or a rescheduled date of completion. After the adjustment, Borough Council may require the developer to post additional security in order to assure that the financial security equals 110%. Any additional security shall be posted by the Developer in accord with this Section of the Ordinance.

A. The amount of guarantee required shall be based upon an estimate of the cost of completion of the required improvements, prepared by the developer's engineer licensed as such in Pennsylvania and certified in writing by such engineer to be a fair and reasonable estimate of such cost. Borough Council may, upon recommendation of the Borough Engineer, refuse to accept such estimate for good cause shown. If the applicant and Council are unable to agree upon an estimate, then the estimate shall be recalculated and certified by another professional engineer licensed as such in Pennsylvania and chosen mutually by Council and the 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 the engineer shall be paid by the applicant or developer.

B. If the Developer requires more than one year from the date of posting the guarantee to complete the required improvements, the amount of the guarantee shall be increased by an additional 10% for each one year period beyond the first anniversary date of posting the guarantee or to an amount not exceeding 110% of the cost of completing the improvements as reestablished on or about the expiration of the preceding one year period as estimated using the procedure established by this Section 704(2).

3. Terms of Guarantee. Construction guarantees shall be submitted in a form and with such surety as approved by Council to assure that all improvements shall be completed within a fixed period of time not to exceed five years from the date of preliminary plan approval.

4. Release of Improvement Construction Guarantees.

A. Partial Release. The developer may request the release of portions of the construction guarantee for completed improvements

and the Borough may permit the release of portions of the guarantee when it could confirm that such improvements have been completed.

B. Request. All such requests shall be in writing to Council, the Borough Engineer and the Borough Solicitor, and shall include a certification from the developer's engineer that the subject improvements have been completed under the approved plans and Borough standards.

C. Inspection. Within 45 calendar days of receipt of such request, Council may direct the Borough Engineer to inspect the subject improvements and certify, in writing, to Council that the improvements have been completed consistent with the approved plans and in compliance with all Borough standards. the Council shall authorize release of such portion of the construction guarantee established by the Borough Engineer to represent the value of the completed improvements. If Councils fail to act within the 45 calendar day period, then Council shall be deemed to have approved the release of funds as requested. Council may, prior to final release at the time of completion and certification by the Borough Engineer, require retention of 10% of the estimated cost of the improvements.

5. Final Release - When the developer has completed the construction of all required improvements, the developer shall notify Council.

A. Notification. Such notification shall be in writing, by certified or registered mail, with a copy to the Borough Solicitor and Borough Engineer and shall include a certification from the developer's engineer that all required improvements have been completed under the approved plans and in compliance with all Borough standards.

B. Inspection. Within 10 calendar days of receipt of the notice, Council may direct and authorize the Borough Engineer to make a final inspection of the improvements.

C. Report. The Borough Engineer shall, within 30 calendar days of a request and authorization, file a detailed written report with Borough Council with a copy mailed to the developer by certified or registered mail, recommending approval or rejection of the improvements either in whole or in part; and, if the improvements or any portion thereof, shall not be approved or shall be rejected, the report shall contain, by specific reference to the applicable

sections of the Ordinance, a statement of reasons for non-approval or rejection.

D. Action. Within 15 calendar days of receipt of the Borough Engineer's report, the Council shall act upon the report and shall notify the developer, in writing by certified or registered mail of their action. If Council or the Borough Engineer fails to comply with the time limitation provisions contained in this Section, all improvements will be deemed to have been approved and the developer shall be released from all liability pursuant to its performance guaranty.

E. Rejected or Unapproved Improvements. If any portion of the subject improvements are not approved or are rejected by Council, the developer shall proceed to rectify or complete the same and, upon completion, the same procedure of notification, as outlined in Section 704(5)(A) above shall be followed.

F. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in this Ordinance or under the approved plan, Council may enforce any corporate bond, or other guarantee by appropriate legal and equitable remedies. If proceeds of the guarantee are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by the security, Council 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 guarantee 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 Borough purposes except for reimbursement of Borough court costs, attorney fees and other costs of enforcement.

SECTION 705. IMPROVEMENTS CONSTRUCTION. This section shall apply to all construction of improvements whether the improvements are completed prior to final plan approval or guarantees are provided.

1. Construction Plans and Drawings. The construction of any improvements shown on an approved Preliminary Plan or in conjunction with the Final Plan application and guarantee proposal, shall be accomplished only in accord with the approved final construction plans detailing the design and installation of all improvements and documenting compliance with this Ordinance.

2. Schedule. The developer shall, at least 15 calendar days prior to the initiation of construction of any required improvements, submit to the Borough a schedule of construction for all required improvements, including the timing of the development of any proposed sections or phases. The schedule may be revised from time to time upon mutual agreement of the applicant and the Borough.

3. Inspections. Based upon the construction schedule and the nature of the required improvements and within 14 calendar days of receipt of the construction schedule, the Borough Engineer shall prepare Borough inspection requirements to ensure the construction of the required improvements in accord with the approved plan and Borough standards. In addition to all final inspections required for all improvements, inspections shall be required at all phases of construction when a failure to inspect would result in a physical impossibility to verify compliance at the time of the final inspection (e.g., the construction of underground stormwater detention facilities, the construction of roadways, and the backfilling of sewer main, water main, and storm drain pipe trenches).

4. Notice. The developer shall provide a minimum of five working days notice prior to the time when construction will have proceeded to the time of a required inspection. Construction shall not proceed further until the Borough Engineer conducts the inspection and approves the improvements.

5. Cost. The cost of all inspections conducted by the Borough shall be borne by the Developer.

SECTION 706. IMPROVEMENT MAINTENANCE GUARANTEE.

1. Guarantee. Before final approval of a street or facility is granted, the developer shall provide to the Borough a maintenance guarantee in an amount determined by Council but not more than 15% of the cost of all required improvements as estimated by the applicant's engineer and approved by the Borough.

A. Such maintenance guarantee shall be in such form as prescribed in Section 704(1) and shall guarantee that the developer shall maintain all improvements in good condition during the 24 months after the completion of construction or installation and final approval of all improvements. If the developer is negligent or fails to maintain all improvements in good condition during the 24 month period, Council may enforce the maintenance guarantee, bond or other surety by appropriate and equitable remedies. If proceeds of such bond or other sureties are insufficient to pay the cost of maintaining the improvements during the 24 month period, Council, at its option, may institute appropriate legal or equitable action to

recover the monies necessary for maintaining the improvements in good condition.

B. After the expiration of the 24 months from the date of the final approval of the subject improvements and if all improvements are certified by the Borough Engineer to be in good condition, Council shall release the maintenance guarantee and surety to the developer or party posting the maintenance guarantee and surety.

2. Central Sewage Guarantee. This section shall only apply if guarantees are not required by third party facility owner.

A. In lieu of the requirements of Section 706(1) above, Council may require a guarantee from the developer for the maintenance, operation and repair of any central sewage system for three years after completion of construction. Bond shall be posted immediately after the system receives final approval and before it is put into operation.

B. In instances where the system use will not reach operational capacity within a period of one year; however, Council may require that such guarantee provide for the maintenance and operation of the system for a period of three years from the time operational capacity is reached. The amount of the maintenance guarantee shall be determined by Council but shall generally not exceed 25% of the estimated cost of the system as verified by the Borough Engineer.

C. Upon the expiration of the term of the maintenance guarantee, Council shall release the maintenance guarantee, provided that the system has been properly maintained and operated during the term of the guarantee and is currently operating properly and in conformance with the applicable DEP discharge requirements. In the event the system is not so maintained and operated, Council, at any time during the term of the guarantee and upon 30 calendar days notice, shall have the right to declare a forfeiture of a portion or all of the maintenance guarantee, depending on the extent of the lack of maintenance and proper operation, and shall use the proceeds for such maintenance and corrective measures as shall be required. If proceeds of such bond or other surety are insufficient to pay the cost of maintaining the improvements during the said three year period, Council, at its option, may institute appropriate legal or equitable action to recover the monies necessary for maintaining the improvements in good condition.

SECTION 707. CONTINUED OWNERSHIP AND MAINTENANCE OF IMPROVEMENTS. The developer shall provide to the satisfaction of the Council, and prior to final plan approval, evidence of the provision for the succession of ownership and responsibility for maintenance of development improvements.

1. Private Operation and Maintenance

A. Land Developments. In the case of land developments such provision shall be in the form of deed covenants and restrictions clearly placing the responsibility of maintenance of all development improvements with the owner of the land development.

B. Residential Developments. In the case of subdivisions, cluster developments, multi-family housing projects and other residential developments involving the transfer of property, the developer shall provide, by deed covenants and restrictions, for the creation of a Property Owners Association (POA), or equivalent entity, to assume the ultimate ownership of all development improvements and responsibility for maintenance of such improvements. Membership in the POA shall be mandatory for all property owners in the development. The developer shall also be a member of the POA and shall remain responsible for payment of any per lot dues or fees assessed by the POA which are associated with improvements serving the lots until otherwise permitted to withdraw under the Uniformed Planned Community Act. The deed covenants and restrictions creating the POA shall be approved by Council.

C. Improvements To Remain Private. In the case where roads, drainage facilities, a central sewage treatment system or central water supply, or any other improvements are to remain private, the developer shall provide for the establishment of an escrow fund in accord with Section 704(1) to guarantee the operation and maintenance of the improvements. The fund shall be established on a permanent basis with administrative provisions approved by Council. The amount of the fund shall be established by Council, but in no case shall be neither less than 15% nor more than 25% of the construction cost of the system as verified by the Borough Engineer. The maintenance and operation of the improvements and the administration of any required maintenance fund account shall be clearly established as the joint responsibility of the owner(s) of each structure or dwelling unit served by such system. Such responsibility and the mechanism to accomplish same shall be established by deed covenants and restrictions that shall be approved by Council.

D. Failure To Operate and Maintain Improvements. If any private improvements are not operated or maintained adequately to assure the function of the improvements consistent with Borough requirements and the needs of the users of the improvements, Council shall have the right to perform the operation and maintenance to meet the intent of this Ordinance and otherwise protect the public health, safety and welfare. Council shall use any and all legal authority and remedies in law available to accomplish same and shall assess the legal, construction, and other costs for same to the person(s) responsible for or benefiting from t proper operation and maintenance. Such actions may include, but are not limited to, those prescribed in Part 9 of this Ordinance, injunctive relief, or the formation of special districts to assess costs.

2. Dedication to Borough. Where a plan includes a proposed dedication of roads, neither the plan approval nor the developer's completion of the streets shall obligate the Council to accept the streets. Acceptance of a proposed dedication shall be a matter of discretion for Council. If determined by Council to be in the interest of the public health, safety and general welfare, Council may accept streets and associated drainage facilities, but shall generally not accept any stormwater control facilities used to manage stormwater within any subdivision or land development, sewage disposal systems, water supply systems, sidewalks, or other improvements unless Council deems it necessary to fulfill the purposes of this Ordinance or the Borough Official Wastewater Facilities Plan. In accepting any improvements Council may attach such reasonable conditions necessary to fulfill the purposes of this Ordinance.

SECTION 708. OPEN LAND AND RECREATION LAND - OWNERSHIP AND MAINTENANCE. This Section shall apply to any development that involves the ownership and maintenance of open land or recreation land held in common or owned and maintained through other arrangements approved by the Council (referred to as "common open space").

1. Plan and Legal Documents. The developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common open space. A plan shall be approved by Council with the recommendation of the Borough Solicitor. The provisions of an approved plan shall be incorporated into a development agreement with the Borough, deed covenants and restrictions, or other legal document that concern the Plan and which can be enforced by Council.

A. The Plan shall define ownership.

B. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of

open space (i.e., lawns, playing fields, meadow, pasture, crop land, woodlands, etc.).

C. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the conservation open space and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.

D. Council may require the applicant to escrow sufficient funds for the maintenance and operation costs of common facilities for up to 24 months.

E. Any changes to the maintenance plan shall be approved by Council.

2. Use Restriction. The use of any common open space shall be limited to those uses which are specifically permitted or required by the applicable sections of this Ordinance and the Borough Zoning Ordinance.

3. Development Plan Designations. The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common open space and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal documents governing the use, ownership and maintenance of common open space shall be noted on the plan. The plan shall also contain the following statement: "Common open land, common recreation land, common facilities and development improvements shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development."

4. Methods for Use Dedication and Common Open Space Ownership and Maintenance. The use of common open space and common open space ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of Council that the chosen method(s) will preserve the common open space use rights established in accord with this Part and provide for the perpetual ownership and maintenance of all open land, and recreation land. All methods shall establish a mechanism for Council to effect the use dedication and require operation and maintenance of common open space, if the means established by the developer fail to provide the same. All methods for use dedication and common open space ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of Council. Operation and maintenance provisions shall include, but not be limited

to, capital budgeting for repair or replacement of development improvements and common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

5. Property Owners Association or Condominium Agreements. All common open space may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot and condominium owners in the development provided:

- A. The POA/CA is established by the developer as a nonprofit corporation for the express purpose of ownership and maintenance of the common open space, or as otherwise may be required by state statute.
- B. Participation in the POA/CA is mandatory for all owners.
- C. Provision is made for the maintenance of common open space during the sale period and the orderly transition of responsibility from the developer to the POA/CA.
- D. The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common open space responsibilities.

6. Transfer to a Private Conservation Organization. In the case of open land and recreation land, the landowner may transfer fee simple title to the areas, or parts thereof, to a private, non-profit organization among whose purposes is the conservation of open land and/or natural resources; provided that:

- A. The deed contains the necessary covenants and restrictions in favor of the Borough to affect the use dedication and common open space ownership and maintenance standards of this Part and this Ordinance.
- B. The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by Council.
- C. The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization be unable to continue to execute the provisions of title.
- D. A maintenance agreement among the developer, the organization and the Borough is executed to the satisfaction of Council.

7. Deed Restricted (Non-Common) Private Ownership. Deed restrictions on privately held lands may be used to preserve open land provided such restrictions include a conservation easement in favor of the Borough, with provisions for reversion to the Borough, POA or trustee holding the remainder of the common open space. Up to 80% of the required conservation open space may be included within one or more large conservancy lots of at least 10 acres provided the open space is permanently restricted from future development through a conservation easement, except for those uses permitted for conservation open space by the Borough Zoning Ordinance, and that Council is given the ability to enforce these restrictions. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

8. Deed or Deeds of Trust. The landowner may provide, as approved by Council, for the use, ownership and maintenance of common open space by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.

9. Conservation Easements Held by the Borough. In the case of open lands and recreation lands, Council may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA/CA, while the development rights are held by the Borough. The lands may be used in accord with the requirements of this Ordinance; and, title to such lands may be transferred to other parties for use as restricted by the conservation easement.

10. Fee Simple and/or Easement Dedication to the Borough. In the case of open lands or recreation lands, Council may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:

- A. There is no consideration paid by the Borough.
- B. Such land is freely accessible to the public.
- C. Council agrees to and has access to maintain such lands.

11. Failure to Preserve Dedication of Use and Operation and Maintenance of Common Open Space. If the method established for the dedication of use, operation, and maintenance of common open space fails to do so in reasonable order and condition in accord with the approved development plan, Council shall have the right and authority to take all necessary legal action to effect such use dedication, operation, and maintenance. The action of Council shall be in accord with the following:

A. Notice. Council shall serve written notice on assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common open space.

B. Correction of Deficiencies. The notice shall include a demand that the deficiencies be corrected in a reasonable period of time that shall be stated in the notice.

C. Public Hearing. A public hearing shall be conducted after notice and shall be advertised in accord with the definition of "public notice" contained in this Ordinance. At such hearing, Council may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.

D. Failure to Correct. In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, Council may enter upon the common open space and maintain the same or correct the deficiencies. Council shall continue such action for such time as may be necessary to correct the deficiencies. The action shall not constitute a taking or dedication of any common open space, nor vest in the public the right to use any common open space.

E. Reinstatement of Responsibility. The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to Council that the proper steps have been affected to modify the terms of use dedication, operation, or maintenance; or, to reorganize or replace the responsible entity so that use dedication, operation, and maintenance established by the approved development plan will be assured.

F. Appeal. Any party to the action of Council may appeal such action to court as provided for in the Pennsylvania Municipalities Planning Code, as amended.

G. Public Costs. The costs of the preservation of use dedication, maintenance and operation of any open land conducted by the Borough under this Part, including any administrative and legal costs, shall be assessed ratably against the properties in the subject development which have a right of enjoyment or use of the common open space. The assessment shall be made a lien on the properties; and, the Council shall, at the time of the notice in

Section 708(11)(A) above, file the required notice of lien against the properties.

SECTION 709. SUBDIVISION OR LAND DEVELOPMENT IMPROVEMENTS

AGREEMENT. All applicants proposing a subdivision or land development requiring the installation of improvements as required by this Ordinance shall, prior to final plan approval by Council, and, if so directed by Council, enter into a legally binding development agreement with the Borough whereby the developer guarantees the installation of the required improvements under the approved plan and all Borough requirements.

1. Contents. The development agreement shall be in a form suitable for execution by Council and the Borough Solicitor and shall provide for the following, at a minimum (since additional clauses may be required by the Borough Planning Commission, Board of Council, Solicitor and Borough Engineer depending on the nature of the project), where applicable:

A. The construction of all facilities authorized by the approved plans (streets, drainage, etc.) in itemized format, including the title and latest date of revision the itemized list is referring to.

B. Installation of survey monuments and lot markers.

C. Installation of all stormwater facilities, water, sewer, and utility lines.

D. Prevention of erosion, sedimentation and water damage to the subject, adjacent and downstream properties.

E. Developer's responsibility for any damages to adjacent or neighboring properties.

F. A work schedule setting forth the beginning and ending dates, and such other details as Council deems fit and appropriate, for improvements contained herein, including the timing of the development of any proposed sections.

G. The estimated cost of the improvements not yet completed, including the amount of performance guarantee to be submitted.

H. Security in the form of a construction guarantee approved by Council to ensure the installation of the required improvements.

I. Security in the form of a maintenance guarantee approved by Council for the repair or reconstruction of improvements which are found by the Borough Engineer to be defective within 24 months

from the date of formal acceptance of the improvements, together with provisions for disbursement thereof.

J. A set of reproducible "AS BUILT" plans prepared by and certified to by a registered professional engineer or a registered professional surveyor of all roadways and streets, bridges, drainage systems, sewage collection and treatment systems, water distribution systems and all other required or provided improvements.

K. Ownership of all improvements.

L. Public liability insurance for the duration of improvements construction. A copy of the policy or other evidence of coverage shall be submitted to Council.

M. A hold harmless clause to protect the Borough from any and all liability.

N. The developer's responsibility for all reasonable engineering and consulting costs and expenses for inspection, consultations, and preparation of agreements, to the extent such costs and expenses exceed the monies paid by the developer in accordance with the standard fee schedules.

O. Provisions for changing the approved final plan, supporting plans, profiles, data, specifications and related documents.

P. Provisions for violations of the development agreement.

Q. Provisions for severability.

R. Provisions for any additional agreements deemed necessary.

2. Execution. The final plan shall not be approved by Council prior to the execution of this agreement, if so required by the Council.

3. Recording. Upon execution of the agreement under this Section, the developer shall record it in the Luzerne County Recorder of Deed's Office and provide a recorded copy to the Borough within 14 days of recording.

PART 8

Manufactured Home Community Design or Mobile Home Park

SECTION 801. GENERAL REQUIREMENTS. The general design standards and required improvements of Part 6 and residential design standards shall apply to manufactured home communities (subdivisions or land developments) even though streets will not be offered for dedication.

SECTION 802. ZONING REGULATIONS. In addition to this Part of the Ordinance, all manufactured home communities shall comply with the Zoning Ordinance.

SECTION 803. SPECIFIC DESIGN STANDARDS.

1. Site Location. A manufactured home shall be located on land of a minimum parcel size of three acres and having a reasonably flat terrain (an average slope of eight percent or less). The land area shall be free from swamps, marshes, garbage, excessive noise, smoke or other elements generally considered detrimental to residential development. The location shall be free from flooding by a one hundred year flood and shall have access to public roads.

1. Placement of Manufactured Homes. Each manufactured home lot shall be provided with a stand or pad consisting of two concrete strips extending from the edge of the paved cartway to accommodate the wheels of the manufactured home. The poured concrete base shall measure one foot deep, three feet wide and 70 feet long for each of the two strips. Each manufactured home lot shall also be provided with a poured concrete outdoor patio six inches deep and at least 180 square feet in area at the main entrance to the manufactured home. The manufactured home shall be required to be provided with anchors and tie-downs that are able to sustain a total tensile load equal to four times the weight of the particular manufactured home.

3. Manufactured home Lot and Parking Requirements. Lot area, dimensions, setbacks, coverage and off-street parking regulations shall comply with the Zoning Ordinance for each manufactured home lot.

4. Buffer Areas. Except for required access drives, the entire lot shall be completely buffered by a planting strip eight feet in depth and three feet in height at the time of planting. The buffer shall be planted and maintained with attractive evergreens and deciduous trees. Access drives or driveways to individual manufactured homes shall be from interior private streets, which shall include the installation of curbing, sidewalks, and street lights.

5. Recreation Areas. A manufactured home community shall devote five percent of the total land area for recreation for the tenants or owners of the manufactured homes.

6. Utilities. All utilities serving manufactured home lots shall be placed at depths required by the relevant utility. If no utility company's standards are available, water and sewer shall be placed a minimum of five feet deep and other utilities a minimum of three feet. Each manufactured home shall be served by community water and sewerage systems with each home having its own lateral and shutoff valve as well as with electric and other utilities.

7. Drainage. Storm drainage from roofs and paved areas shall be channeled to natural drainage courses and away from adjoining properties and public roads. Trees and shrubbery shall be maintained on the property of the manufactured home community and on every lot within the community for absorption of water runoff and hence for flood protection. Storm drainage shall also be handled under the requirements of Section 620 of this Ordinance and the Freeland Borough Stormwater Management Ordinance.

8. Storage Sheds. Each manufactured home lot shall have an enclosed storage shed, which shall have at least 360 cubic feet of storage area and shall be located within 10 feet to the home the shed is intended to service.

9. Refuse Collection. Unless the Borough mandates inclusion in the Borough's garbage collection, the manufactured home community owner shall provide a dumpster and private hauling service for each manufactured home.

10. Sewer System. Each manufactured home lot shall be provided with at least a four inch diameter vertical riser pipe that connects the manufactured home sewage drain outlet to the sewer line. Provisions shall be made for plugging the sewer riser pipe when a manufactured home does not occupy the lot. Surface drainage shall be directed away from the riser. The rim of the riser pipe shall extend at least six inches above ground elevation.

1. Water Systems. Each manufactured home lot shall have a frost-free water riser pipe which connects the manufactured home water system to the central water system. An outside hose bib shall be supplied for each manufactured home.

2. Sidewalks. All manufactured home communities shall be provided with safe, convenient, all season, pedestrian walks of a surface, depth and width approved by the Borough between individual manufactured homes and streets and to all recreational facilities provided for the residents, tenants and owners. Walkways serving recreational facilities shall have a minimum width of four feet.

3. Parking Areas. Parking spaces shall be provided as required by the Zoning Ordinance. All parking spaces for manufactured home lots shall be paved.

4. Ingress and Egress. Access drives to public streets from a manufactured home community shall comply with Part 6 of this Ordinance. Streets within the manufacture home community shall be constructed to Borough specifications as described in Part 6, except that one way streets shall be allowed, provided access by fire and other emergency vehicles is not impaired and provided the street plan is reviewed and approved by the Borough.

5. Street Signs. Street identification signs shall be provided for all streets at every intersection in the manufactured home community. Such signs shall be purchased and installed by the developer.

PART 9

Administration

SECTION 901. PURPOSE. The purpose of this Part is to establish the procedures for the amendment, administration and enforcement of this Ordinance.

SECTION 902. AMENDMENT. Amendments to this Ordinance shall be in accordance with the Pa MPC and become effective only after a public hearing held pursuant to public notice in the manner prescribed in the Pa MPC.

SECTION 903. WAIVERS/MODIFICATIONS.

1. Intent. The provisions of this Ordinance are intended as a minimum standard for the protection of the public health, safety, and welfare. If the literal compliance with any mandatory provision of these regulations is shown by the applicant, to the satisfaction of Borough Council, to be unreasonable or to cause undue hardship as it applies to a particular property; or, if the applicant shows that an alternative proposal will allow for equal or better results, Borough Council may grant a waiver from such mandatory provision so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a waiver or modification shall not have the effect of making null and void the intent and purpose of this Ordinance.

2. Conditions. In granting waivers or modifications, Borough Council may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

3. Procedure. All requests for waivers or modifications shall be in writing, shall accompany and be made a part of the application, and shall include:

- A. The specific sections of this Ordinance in question.
- B. Provisions for the minimum modification necessary as an alternate to the requirements.
- C. Justification for the waiver or modification, including the full grounds and facts of unreasonableness or hardship.
- D. Although action on the modification request shall be taken by Borough Council all modification requests must be first presented by the applicant or agent to the Planning Commission meeting for their recommendation. Once a recommendation has been made by the Planning Commission the modification request will be placed on the agenda of the next regular meeting of Borough Council for

approval or denial. A representative must be present at the Borough Council meeting also to present the modification or waiver request. If Borough Council denies the request, the applicant shall be notified, in writing, of the reasons for denial. If the Council grants the request, the final record plan shall include a note which identifies the waiver or modification as granted.

SECTION 904. PREVENTIVE AND ENFORCEMENT REMEDIES

1. Preventive Remedies.

A. In addition to other remedies, the Borough may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

B. The Borough may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Ordinance. This authority to deny such a permit or approval shall apply to any of the following applicants:

- i. The owner of record at the time of such violation.
- ii. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- iii. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
- iv. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

C. 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 Borough may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

D. In the event that any applicant or owner of any property fails to obtain the proper sewage permit for any required on-site sewage disposal system, or takes such action or causes any action which results in the revocation of any sewage permit by the Borough Sewage Enforcement Officer, the Borough shall have the authority to withhold the issuance of any certificate of use for any structure on the said property and/or to take any appropriate actions by law or in equity to prohibit the occupancy of any such structure.

2. Enforcement Remedies.

A. Any person, partnership or corporation who or which has violated the provisions of this Subdivision and Land Development Ordinance or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney, witness, and consultant fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magistrate Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magistrate Judge further determines that there was a good faith basis for the person, partnership or corporation violating this 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 initial determination of a violation by the Magistrate Judge and, thereafter, each day that a violation continues shall constitute a separate violation.

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

C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this section including, but not limited to, injunctive relief.

3. Jurisdiction. Magistrate Judge shall have initial jurisdiction in proceedings brought under Section 903(2) above.

4. Transfer. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

5. Construction. In the case of subdivisions, no person shall proceed with any development, site grading or construction of improvements prior to the approval of a preliminary plan in accord with this Ordinance. In the case of land developments, no person shall proceed with any development, site grading or construction of improvements prior to the authorization to proceed issued in accord with this Ordinance. No deeds shall be executed or recorded for the transfer of any lots or units before the Borough has approved the final plan and such plan is filed with the Luzerne County Recorder of Deeds.

SECTION 905. FEES.

1. Application and Review Fees.

A. Application fees shall be payable to the Borough and established by resolution of Borough Council.

B. Review fees shall be payable to the Borough and may include reasonable and necessary charges by the Borough's professional consultants for review and report thereon to the Borough.

2. Final Fees. At the time of filing, the final application shall be accompanied by a check payable to the Borough in an amount determined by the Borough sufficient to cover the cost of:

A. Reviewing engineering details.

B. Inspecting the site for conformance with this Ordinance.

C. Evaluating cost estimates of required improvements.

D. Inspection of required improvements during installation.

E. Final inspection or re-inspection on completion of installation of required improvements.

F. Fees charged by the County Planning Commission and fees for other related consulting services.

3. Adjustment. Prior to the final approval of any application, the Borough will determine all costs incurred; and, to the extent that there has been an overpayment or an underpayment, there shall be a refund or a supplemental payment, as indicated.

4. Disputes. Disputes between the applicant and the Borough regarding fees shall be settled through dispute resolution procedures under Section 503(1) and Section 510(g) of the Pa MPC.

SECTION 906. RECORDS. The Borough shall keep an accurate public record of its findings, decisions, and recommendations relevant to all applications filed for review or approval.

WHEREAS, the Borough of Freeland under Section 2461 of the Borough Code has the authority under Section 2401 of the Borough Code to require any owner of property abutting any street in which there is a water main constructed or acquired by the Borough to make connections with such water line for the purpose of conducting water to such property.

NOW THEREFORE, the Borough of Freeland adopts the following ordinance:

Section 1. The term water system as used herein means the wells, pumping stations, reservoirs, filter plant, treatment, equipment, and distribution lines together with all that equipment which serve the inhabitants of the Borough of Freeland and certain areas of the Townships of Butler and Foster and which water system is owned by the Borough of Freeland Municipal Authority, a municipal corporation duly created under the authority of the Borough of Freeland.

Section 2. All owners of property abutting any street or alley in the Borough of Freeland which there is a water main or in which a water main may be constructed shall make connection at their own expense to such water line for the purpose of conducting water to such property.

Section 3. Any such property owner shall be given at least forty-five (45) days notice of the requirement for connection of his or her property to the Borough of Freeland Municipal Authority Water System. Upon failure of such owner to make such connection, the Borough of Freeland Municipal Authority may make the same and collect the costs thereof from the owner by a municipal claim or by an action of assumpsit.

Section 4. The rules, rates, and regulations of the Borough of Freeland Municipal Authority as adopted November 7, 1940 revised March 31, 1949 also revised July 1, 1955; December 1, 1964 and February 3, 1965 are hereby approved. The precise terms of which are incorporated herein by reference as though set forth herein at length.

Section 5. In the event that any provisions, sections, sentence, clause, or part of this Ordinance shall be held invalid such invalidity shall not effect or impair any remaining provision, sections, clause, or part of this Ordinance. It being the intent of the Borough of Freeland that such remainder shall be and shall remain in full force and effect.

Enacted at the meeting of the Borough Council held on Monday, September 10, 1973.

Borough of Freeland

By William S. Deeter

ATTEST:

Richard M. White
Examined and approved this 10th day of September, 1973

Richard M. White

FREELAND BOROUGH
EARNED INCOME TAX ORDINANCE NO. 11-07 OF 2011

AN ORDINANCE OF THE, BOROUGH OF FREELAND, LUZERNE COUNTY, PENNSYLVANIA, REIMPOSING AND AMENDING TAX FOR THE GENERAL REVENUE PURPOSES ON EARNED INCOME OF THE RESIDENTS AND NON-RESIDENTS OF THE BOROUGH OF FREELAND TO CONFORM WITH STATUTORY GUIDELINES BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2012, AND FOR EACH CALENDAR YEAR THEREAFTER, AND ON NET PROFITS EARNED FROM OPERATION OF A BUSINESS, PROFESSION OR OTHER ACTIVITIES DURING SAID PERIODS, REQUIRING THE FILING OF DECLARATIONS AND RETURNS AND THE GIVING OF INFORMATION BY EMPLOYERS AND BY THOSE SUBJECT TO THE TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING TAX AT THE SOURCE, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.

BE IT RESOLVED by the FREELAND BOROUGH COUNCIL, and hereby enacted pursuant to the authority granted by The Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, as amended by Act 32 of 2008; 53 P.S. Section 6924.101 et. seq., hereinafter known as the "Act", as follows:

SECTION 1. This Ordinance shall be known as the "Earned Income Tax Ordinance". The provisions hereof shall become effective on the 7th day of November, 2011, A.D.. and the tax shall continue in force on a calendar year or a taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate become effective on the date specified in the Amending Ordinance.

SECTION 2. DEFINITIONS:

"Association" - A partnership, limited partnership, or any other unincorporated group of two or more persons.

"Board" - The Board of Supervisors/Commissioners respectively (As applicable.)

"Business" - Any enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

"Corporation" - A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

"Council" - Council of the BOROUGH of FREELAND (As applicable.)

"Current Year" - The calendar year for which the tax is levied.

"Domicile" - The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses,

or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

"Earned Income" - Compensation including salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration for services rendered, whether in cash or in property, such as:

(a) Items of remuneration received, directly or through an agent, in cash or in property, based on payroll periods or piecework, for services rendered as an employee or casual employee, agent or officer of an individual, partnership, business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, dismissal, termination or severance payments, early retirement incentive payments and other additional compensation contingent upon retirement, including payments in excess of the scheduled or customary salaries provided for those who are not terminating service, rewards, vacation and holiday pay, paid leaves of absence, payments for unused vacation or sick leave, tax assumed by the employer, signing bonuses, amounts received under employee benefit plans and deferred compensation arrangements.

(b) Scholarships, stipends, grants and fellowships, if services are rendered in connection therewith.

(1) When used in this subsection, the following words have the following meanings, unless the context clearly indicates otherwise:

(i) Fellowship stipend or fellowship award - A fixed sum of money paid periodically for services or to defray expenses to a graduate student who is enrolled in a graduate degree program at a university.

(ii) Grant-in-aid-Financial support given by a public agency or private institution to an individual to further the individual's education.

(iii) Postdoctoral research fellowship stipend or postdoctoral research fellowship award - A fixed sum of money paid periodically for service or to defray expenses of an individual who has obtained a doctoral degree at a university and in conducting research at a research facility.

(iv) Scholarship - A grant-in-aid to a student.

(c) Other forms of remuneration characterized as taxable compensation by the Tax Reform Code of 1971, as amended, and its implementing regulations, as amended, and any future amendments to said Code and/or its implementing regulations.

(d) Compensation does not include (i) periodic payments for sickness and disability other than the regular wages received during a period of sickness or disability; or (ii) disability, retirement or other payments arising under workers compensation acts, occupational disease acts and similar legislation by any government; or (iii) payments commonly recognized as old age or retirement benefits paid to persons retired after

reaching a specific age or after a stated period of employment; or (iv) payments commonly known as public assistance, or unemployment compensation payments by any governmental agency; or (v) payments to reimburse actual expenses; or (vi) payments made by employers or labor unions for employee benefit programs covering hospitalization, sickness, disability or death, supplemental employment benefits or strike benefits, subject to certain conditions identified in the Tax Reform Code of 1971, as amended and its implementing regulations; or (vii) any compensation received by United States servicemen serving in a combat zone; or (viii) payments received by a foster parent for in-home care of foster children from an agency of the Commonwealth or a political subdivision thereof, or an organization tax exempt from Federal tax under section 501(c)(3) of the Internal Revenue Code of 1954, which is licensed by the Commonwealth or a political subdivision thereof as a placement agency; or (ix) payments made by employers or labor unions for employee benefit programs covering social security or retirement; or (x) personal use of an employer's owned or leased property or of employer-provided services.

"Income Tax Officer or Officer" - Person, public employee or private agency designated by governing body to collect and administer the tax on earned income and net profits.

"Employer" - A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

"Net Profits" -

(a) The net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, be determined either on a cash or accrual basis in accordance with generally accepted accounting principles and practices, as defined in the Tax Reform Code of 1971, as amended, its implementing regulations, and any subsequent amendments to said Code and/or regulations. Net profits do not include income which is not paid for services provided and which is in the nature of earnings from an investment.

(b) To constitute net profits, all of the following must apply:

(1) The gross profits shall be derived from one of the following:

- (i) The marketing of a product or service to customers on a commercial basis or from securities employed as working capital in the business operations.
- (ii) Accounts and notes receivable from sales of products or services in the ordinary course of the business operations.
- (iii) Assets which serve an operational function in the ordinary course of business, operations.

(2) The marketing activity shall be conducted with the manifest objective of achieving profitable operations.

(3) The marketing objective shall be conducted with regularity and continuity and may not be limited or exclusive.

(c) In computing net profits, a deduction will not be allowed for any item of cost, expense or liability derived or incurred in connection with, or attributable to any of the following:

(1) The ownership or disposition of assets that are held for investment purposes or otherwise serve an investment function.

(2) The trading in securities for personal purposes and not for the accounts of customers.

(3) The sale, discontinuation or abandonment of a business or segment thereof.

(4) Any tax imposed on, or measured by, gross or net earned or unearned Income.

(5) An isolated or nonrecurring transaction which is not a normal or routine business activity.

(d) Choosing to form a partnership or other entity or to associate with others, receiving and reporting income or gain as the income of the partnership, entity or associates or dividing the same among its partners, beneficial owners or associates or the trading in securities for the benefit of shareholders, partners, members or associates does not of itself make the income of the partnership, entity or associates net profits.

(e) For purposes of this section, only the following participants in the stock, securities, options, derivatives, futures or commodities market are engaged in marketing of a product or service to customers:

(1) Those who maintain or provide a market place or facilities for bringing together purchasers and sellers of these financial investment products.

(2) Those who are licensed to act as their customer's agents and charge a negotiated commission for executing transactions and do not take title to the particular portion they buy or sell.

(3) Those who devote managerial attention to the financial investment products holdings of others, or who employ other persons to assist them in that management, in the capacity of a licensed investment advisor.

(4) Licensed dealers, including financial investment product specialists and market makers, if the conditions in subparagraph (i)-(iv) are met:

(i) The dealer maintains an inventory of financial investment products with the objective of reselling his inventories at a profit to customers or operates as a specialist or market maker.

(ii) The dealer makes market by quoting the bid and ask prices at which he is willing to buy and sell the financial investment products and by buying directly from or selling directly to customers.

(iii) The dealer's profit is determined in whole or in part by a markup based on cost.

(iv) The dealer elects to inventory securities held for resale to customers or uses the mark-to-market system of accounting.

(5) Underwriters who facilitate initial sales of financial investment products by acting either as licensed dealers in a principal capacity or as brokers in an agency capacity.

(f) When a person operates as an investor or trader with respect to a portion of that person's activities and as a market establishment, broker, investment counselor or dealer with respect to the rest, this section applies only to the operations as a market establishment, broker, investment counselor or dealer.

For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

(1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;

(2) any gain on the sale of farm machinery;

(3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and

(4) any gain on the sale of other capital assets of the farm.

"Non-resident" - A person, partnership, association or other entity domiciled outside the taxing district.

"Person or Individual" - A natural person.

"Preceding Year" - The calendar year before the current year.

"Resident" - A person, partnership, association or other entity domiciled in the taxing district.

"Succeeding Year" - The calendar year following the current year.

"Taxing District" - The Borough of Freeland, Luzerne County, Pennsylvania.

"Taxpayer" - A person, partnership, association, or any other entity, required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

SECTION 3. IMPOSITION OF TAX: A tax for general revenue purposes is hereby re-imposed in the amount of one (1 %) percent earned income received and to net profits earned by residents and non-residents of the Borough of Freeland beginning on the 1st day of January, 2012, and continuing for each taxable year thereafter.

Except as otherwise provided in Section 317 of the Local Tax Enabling Act, 53 P.S. Section 6294.317, as amended, allowing for crediting or deductions for duplication of taxes, in the event the School District in which the Borough is situate, shall impose, or continue to impose, an earned income tax under the authority of the Act on residents or businesses domiciled within that Borough during the same year or part of year, then the tax herein imposed shall be subject to the sharing provision on the day such duplication becomes effective.

SECTION 4. DECLARATION AND PAYMENT OF TAX:

A. Net Profits.

(1) Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1, and ending December 31 of the current year, and pay to the officer in four (4) quarterly installments, as nearly equal as possible, the tax due thereon as follows: The first installment at the time of filing the declaration, and the other installments on or before June 15, of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.

(2) Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration herein above required on or before June 15 of the current year, September 15 of the current year, or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in installments, as nearly equal as possible, the tax due thereon, on or before the quarterly payment dates which remain after the filing of the declaration.

(3) Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return and reconciliation showing the amount of net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year, the final return as herein above required.

(4) The officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where

a taxpayer who has filed the declaration herein above required, anticipated additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

(5) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within thirty (30) days after the discontinuance of business, file his final return as herein above required and pay the tax due.

B. Earned Income.

(1) Annual Earned Income Tax Return - Every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1 of the current year, and ending December 31 of the current year. Such final return shall also show the total amount of tax due thereon, the amount of tax paid thereon, and the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(2) Earned Income Not Subject to Withholding - Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer a quarterly return on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such returns, shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

C. Death of Taxpayer.

In the event of the death of a taxpayer during a taxable period, his personal representative shall file his return on or before the 15th day of April of the year following the date of death and on or before such date shall pay any tax due from such deceased taxpayer under this Ordinance or demand refund in the case of over-payment.

D. Guardian of Taxpayer

Should a guardian of the estate be appointed for a taxpayer such guardian shall be imputed with the same duties and responsibilities as the taxpayer would have regarding the reporting and paying of taxes under this Ordinance.

SECTION 5. COLLECTION AT SOURCE:

A. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough who employs one or more persons, other than domestic servants, for a

salary, wage, commission or other compensation, who has not previously registered, shall, within fifteen (15) days after becoming an employer, register with the officer, his name and address and such other information as the officer may require.

B. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Borough who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Ordinance on the earned income due to his employment, and shall, on or before April 30, of the current year, July 31, of the current year, October 31 of the current year and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively. Such return unless otherwise agreed upon between the officer and the employer shall show the name and social security number of each such employee, the earned income of such employee during such preceding three month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the complete address of each and every employee subject to withholding, the total earned income of all such employees during such preceding three month period, and the total tax deducted there from and paid with the return.

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

C. On or before February 28, of the succeeding year, every employer shall file with the officer:

(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1 of the current year and ending December 31 of the current year.

(2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31, of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, and the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed:

D. Every employer who discontinues business prior to December 31 of the current year, shall within thirty (30) days after the discontinuance of business, file the returns and withholding statements herein above required and pay the tax due.

E. Except as otherwise provided herein, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

Notwithstanding the foregoing, no employer shall be held liable for failure to withhold

earned income taxes or for the payment of such withheld tax money to a political subdivision other than the Borough if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employee's place of residence submitted by the employee, nor shall an employer be liable for failure to withhold earned income taxes, or to make reports of wages, salaries, commissions or other compensation of his/its employees, unless the official continuing register of all earned income taxes levied under the authority of the Local Tax Enabling Act, as amended, maintained and supplemented annually by the Department of Community and Economic Development, lists the Borough 's levying of the earned income tax.

F. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of tax or from complying with the requirements of the Ordinance relating to the filing of declarations and returns.

SECTION 6. POWERS AND DUTIES OF OFFICER:

A. The Board/Council, by Resolution shall appoint the officer.

B. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

C. Each officer, before entering upon his official duties, shall give and acknowledge a bond to the Borough. If the Borough shall by Ordinance, designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of this subsection. Each such bond shall be joint and several with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth. Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants, appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all monies and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents, or other official things held in right of his office.

Each such bond shall be taken in the name of Freeland Borough, and shall be for the use of the Borough appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal of the bond. The Borough, or any person, may sue upon the said bond in its own or his own name for its or his own use. Each such bond shall contain the name or names of the Surety Company or companies bound thereon. The Borough shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time. The Borough may at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to the Borough for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond. The Borough shall designate the custodian of the bond required to be given by the officer.

D. The officer charged with the administration and enforcement of the provisions of the

Ordinance is hereby empowered to prescribe, adopt, promulgate, and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which any overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed three (3) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the Ordinance. No rule or regulation of any kind shall be enforceable unless it has been approved by Ordinance by the Board/Council. A copy of such rules and regulations currently in force shall be available for public inspection.

E. The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.

F. The officer and agent designated by him are hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunities for such examination and investigation as hereby authorized. The officer shall have such power to subpoena books, records and papers of the employer or taxpayer as may be found in authority of the Commonwealth of Pennsylvania.

G. Any information gained by the officer, his agents, or by any other official or agent of the Borough as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the Ordinance, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

H. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

SECTION 7. SUIT FOR COLLECTION OF TAX:

A. The officer may sue in the name of the Borough for the recovery of taxes due and unpaid under this Ordinance.

B. Any suit brought to recover the tax imposed by this Ordinance shall be begun within three (3) years after such tax is due, or within three (3) years after the declaration or return has been filed, whichever date is later:

Provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of the Ordinance, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) In the case of substantial understatement of tax liability of twenty-five (25%) percent or more and no fraud, suit shall be begun within six (6) years.

(4) Where any person has deducted taxes under the provisions of this Ordinance, and has failed to pay the amounts so deducted to the officer, or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.

(5) This section shall not be construed to limit Council from recovering delinquent taxes by any other means provided by the Act.

C. The officer may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

SECTION 8. INTEREST AND PENALTIES:

(a) If for any reason the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(b) Notwithstanding the provisions of subsection (a), the Borough may, by Ordinance, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the non-reporting or under reporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pay the taxes in full during the period so established. The Borough shall adopt regulations to implement the provisions of this subsection.

(c) The provisions of subsection (b) shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under the provisions of this Ordinance, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this Ordinance. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection (b) if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

SECTION 9. FINES AND PENALTIES FOR VIOLATION OF ORDINANCE:

A. Any person who fails, neglects, or refuses to make any declaration or return required by this Ordinance, any employer who fails, neglects or refuses to register or to pay the tax

deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in Luzerne County, be sentenced to pay a fine of not more than Five Hundred and no/100 (\$500.00) Dollars for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.

B. Any person who divulges any information which is confidential under the provisions of the Ordinance, shall, upon conviction thereof before any district justice, or court of competent jurisdiction, be sentenced to pay a fine of not more than Five Hundred and no/100 (\$500.00) Dollars for each offense, and costs, and in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty (30) days.

C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the Ordinance.

D. The failure of any person to receive or procure forms required for making the declaration or returns required by the Ordinance shall not excuse him from making such declaration or return.

SECTION 10. SEVERABILITY.

The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair the other remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Board/Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause or section not been included herein.

SECTION 11. This Ordinance is adopted pursuant to the authority conferred by the Act of December 31, 1965, P.L. 1257; 53 P.S. Section 6924.101, et. seq., as amended by Act 32 of 2008.

SECTION 12. RECONCILIATION OF RE-ENACTED AND AMENDED ORDINANCE WITH PRIOR ORDINANCES.

It is hereby declared to be the intent of the Borough of Freeland that this Ordinance replace in its entirety all prior Ordinances adopted by, motions approved, or other actions taken by, the Borough of Freeland levying an earned income tax, and/or in any manner affecting the specific terms or provisions of said earned income tax as levied, the provisions of which shall remain in full force and effect for each year thereafter, without annual reenactment unless the rate of tax is subsequently changed.

SECTION 13. EFFECT ON OTHER ORDINANCES.


Any ordinance or part of Ordinance conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

ADOPTED as an Ordinance of the Borough of Freeland, Luzerne County, Pennsylvania, this 7th day of November, 2011.

ATTEST:

BOROUGH OF FREELAND:


Anna Marie Durange, Secretary


John Potoskie, President

Examined and Approved this 7th day of November, 2011.


Tami Martin, Mayor

FREELAND BOROUGH ORDINANCE NO. 12-29 OF 2011
AN ORDINANCE ADOPTING AN INTERGOVERNMENTAL COOPERATION
AGREEMENT BETWEEN FREELAND BOROUGH AND FOSTER TOWNSHIP

WHEREAS, Freeland Borough, a political subdivision of the Commonwealth of Pennsylvania, has an existing police department, which is sufficiently manned and equipped to properly provide police service to portions of Foster Township;

WHEREAS, Foster Township has requested that Freeland Borough provide police protection to Hickory Hills, a uniformed planned community or residential subdivision located within Foster Township (a copy of the recorded Subdivision Plans are attached hereto and made a part of as "Exhibit A");

WHEREAS, Freeland Borough has agreed to pay for any and all charges incurred by it to advertise and adopt this Ordinance.

NOW, therefore, at a duly advertised meeting of the Freeland Borough Council, it is hereby ordained that:

Freeland Borough hereby enters into an intergovernmental cooperation agreement with Foster Township to authorize Freeland Borough Police to provide police protection to Hickory Hills as more fully described in "Exhibit A".

The Borough hereby adopts the terms and provisions of the Intergovernmental Cooperation Agreement attached hereto as Exhibit "B".

This Ordinance shall become effective on January 1, 2012 at 12:01 A.M.

DULY ORDAINED, this 29th day of December, 2011, at a duly advertised meeting of the Freeland Borough Council.

FREELAND BOROUGH COUNCIL

Anna Marie Durange
Anna Marie Durange, Secretary

John Potoskie
John Potoskie, President

Approved by the Mayor this 29th day of December, 2011.

Mayor Tammi Martin
Mayor

EXHIBIT "A"

HICKORY HILLS PROPERTY / WHITE HAVEN, PA.



EXHIBIT "B"