

ORDINANCE NO. 1986- /

AN ORDINANCE OF THE TOWNSHIP OF MARION,  
BERKS COUNTY, PENNSYLVANIA, AMENDING THE  
MARION TOWNSHIP SUBDIVISION AND LAND  
DEVELOPMENT ORDINANCE NO. 1974-~~XX~~ ENACTED  
MAY 28, 1974 BY CHANGING AND AMENDING  
VARIOUS PROVISIONS THEREOF

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BE IT ENACTED AND ORDAINED, and it is hereby ENACTED AND  
ORDAINED by the Board of Supervisors of the Township of Marion,  
Berks County, Pennsylvania, as follows:

SECTION 1. The Marion Township Subdivision and Land  
Development Ordinance No. 1974-~~28~~ enacted May 28, 1974 is hereby  
amended to reflect the following changes:

1. Page 3, Section 203.2.b:

Delete this Subsection and reletter Subsection "c"  
as Subsection "b"

2. Page 3, Section 203.2.C:

Change "five (5) calendar days" to read "fifteen  
(15) calendar days"

3. Page ~~4~~, Section 204.2:

Add a new subsection f. as follows:

- f. In the case of a Preliminary Plan calling for  
the installation of improvements beyond a five  
(5)-year period, a schedule shall be filed by  
the landowner 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 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 the Township Supervisors in its discretion.

Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of twenty-five percent (25%) of the total number of dwelling units as depicted on the Preliminary Plan, unless a lesser percentage is approved by the Township Supervisors in its discretion.

4. Page 5, Section 205.3, in the heading:  
Change "Department of Highways" to "Department of Transportation"
5. Page 5, Section 205.4.a, fifth line:  
Change "ten (10) calendar days" to read "fourteen (14) calendar days"
6. Page 6, Section 205.4.b:  
Delete this Section and reletter Section "c" as Section "b" and reletter Section "d" as Section "c"
7. Page 6, Section 205.4.d:  
Change "five (5) days" to read "fifteen (15) days"
8. Page 7, Section 205.5.c, third and fourth line:  
Delete "...and the signature of the Chairman on two (2) sets of plans".
9. Page 7, Section 205.5.c, fourth line:

Change "five (5) days" to read "fifteen (15) days"

10. Page 7, Section 205.5.d:

Change this Section to read as follows:

- d. The Township Supervisors shall within ninety (90) days following the date of the regularly scheduled meeting of the Township Planning Commission next following the date the application is filed with the Township notify the Subdivider of their action regarding the Plan. Should the said next regularly scheduled meeting occur more than thirty (30) days following the filing of the application, the said ninety (90) day period shall be measured from the thirtieth (30th) day following the day the application was filed.

11. Page 7, Section 206:

Delete in its entirety and add new Sections 206.1 and 206.2 as follows:

Section 206 County Review and Change of Ordinance

206.1 Berks County Planning Commission Review

Applications for subdivision and land development within the Township shall be forwarded upon receipt by the Township to the Berks County Planning Commission for review and report, together with any required fees sufficient to cover the costs of the review and report, which shall be paid by the subdivider, and the Township Supervisors shall not approve an application until the County report is received or until the expiration of forty-five (45) days from the date the application was forwarded to the County.

206.2 Effect of Change or Amendment of Ordinance on Applications

From the time an application for approval of a plat, whether preliminary or final, is duly

filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations. When an application for approval of a plan, whether preliminary or final, has been approved or approved subject to conditions acceptable to the applicant, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. 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 stood at the time when the application for such approval was duly filed. Where the landowner has substantially completed the required improvements as depicted upon the final plan within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke

any aspect of the approved final plan pertaining to the zoning classification or density, lot, building, street, or utility location. If the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's schedule of submission of final plats 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 said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section. Failure of landowner to adhere to the schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

12. Page 10, Section 208.3:

Change this Section to read as follows:

208.3 Review by the Township Planning Commission

The Final Plan shall be reviewed, in accordance with the procedure required under Article 11, Section 205.4 of these regulations for Preliminary Plans, in addition:

- a. Prior to Planning Commission endorsement, a letter of approval for the Sediment and Erosion Control Plan, if required under Title 25, Pennsylvania Code, Section 102, shall have been obtained.

If all the requirements of this Ordinance are met and the review is favorable, the Planning Commission shall authorize its Chairman, with the secretary so

attesting, to endorse the Record Plan "Reviewed and Approved by the Marion Township Planning Commission", together with the date of such action.

- b. The Record Plan with Planning Commission's endorsement, shall be forwarded to the Township Supervisors.

13. Page 11, Section 209.2

Change this Section to read as follows:

- 209.2 After the Plan has been given final approval by the Township, the Plan shall be submitted to the County Planning Commission for endorsement. As a prerequisite to endorsement, the County Planning Commission will require three paper prints bearing the Township Seal and endorsement by the Township Planning Commission and Supervisors and copies of all earthmoving permits which may be required by the Pennsylvania Department of Environmental Resources.

14. Page 12, Section 210.2:

Change this Section to read as follows:

- 210.2 No plat shall be finally approved unless the streets shown have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by this Ordinance, and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains, and other improvements as may be required by this Ordinance have been installed in accordance with this Ordinance. In lieu of completing all of the improvements required, the subdivider shall deposit with the Township a financial security in an amount sufficient to cover the cost of all improvements or common amenities required by this Ordinance and the cost of preparing as-built drawings of those improvements. The financial security may be in the form of an irrevocable letter of credit or restrictive or escrow account in a

federal or commonwealth chartered lending institution or other type of financial security which the Township approves. The financial security shall guarantee the completion of all required improvements within one year from the date of posting of the financial security.

The amount of the financial security shall be equal to one hundred ten percent (110%) of the cost of the required improvements for which the financial security is to be posted. Cost of the improvements shall be established by submission to the Township Supervisors of bona fide bids from contractors chosen by the party posting the financial security to complete the improvements or, in the absence of such bona fide bids, the cost shall be established by an estimate prepared by the Township Engineer. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional ten percent (10%) for each one year period beyond the first anniversary date of posting of financial security or to an amount not exceeding one hundred ten percent (110%) of the cost of completing the required improvements as re-established on or about the expiration of the initial one year period.

The party posting the financial security may require the Township Supervisors to release or authorize release, from time to time, such portions of the financial security necessary for payment to the contractors performing the work. Any such requests shall be in writing addressed to the Township Supervisors, and the Township Supervisors shall have forty-five (45) days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Township Supervisors that such portion of the work upon the improvements has been completed in accordance with the approved subdivision plan. Upon such certification the Township Supervisors shall authorize release by the

bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed. If the Township Supervisors fail to act within said forty-five day period, the Township Supervisors shall be deemed to have approved the release of funds as requested. The Township Supervisors may, prior to final release at the time of completion and certification by its engineer, require retention of ten percent (10%) of the estimated cost of the aforesaid improvements.

In the event of default, the obligor and surety shall be liable thereon to the Township for the cost of the improvements or parts thereof not installed. Upon receipt of the proceeds thereof, the Township shall install the improvements. If the cost of the improvements exceeds the amount of the performance guarantee, then the subdivider shall be liable for the amount in excess which the Township has actually expended for such improvements. In case the amount of the performance guarantee exceeds the actual cost of improvements made, the Township shall return the unused sum to the surety or the person who has paid or deposited the performance guarantee.

15. Page 14, Section 213:

Change this Section to read as follows:

Section 213 Dedication and Maintenance Guarantee

All streets, parks or other improvements shown on the subdivision plan, recorded or otherwise, shall be deemed to be private until such time as the same has been offered for dedication to the Township and accepted by resolution and recorded in the office of the Clerk of the Court of Quarter Sessions.

Where the Township Supervisors accept dedication of all or some of the improvements following completion, the Township Supervisors may require the posting of financial security



to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design specifications as depicted on the final subdivision plan for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The financial security shall be of the same type as permissible with regard to installation of improvements, and the amounts of the security shall be fifteen percent (15%) of the actual cost of installation of said improvements.

16. Page 22, Section 303.1.1:

Add the following to the end of the sentence:

"In addition a note shall be placed on the plan that a PennDOT Highway Occupancy Permit is required, pursuant to Sec. 420 of the State Highway Law, before driveway access is permitted and that access to a state road shall be only as authorized by the Permit."

17. Page 22, Section 303.1.0, lines 1 and 2:

Delete "measuring three and one-half (3-1/2) inches square"

18. Page 26, note (b), fourth line:

Change "Department of Highways" to read "Department of Transportation"

19. Page 53, definition of Sight Distance, fourth line:

Change "4.5 feet" to read "3.75 feet"

20. Page 54, Section 704, definition of "subdivision":

Change (a) of the definition of "subdivision" to read as follows:

- (a) The division or redivision 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, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agriculture purposes into parcels of more than ten acres, not involving any new street or easement of access or residential dwellings shall be exempted.

The term subdivision shall refer, as appropriate in this Ordinance, to the process of subdividing land or to the land proposed to be subdivided.

SECTION 2. All Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed, insofar as they are inconsistent with this Ordinance.

SECTION 3. This Ordinance shall become effective ten days after the date of final passage.

Duly enacted at a meeting of the Board of Supervisors of the Township of Marion, Berks County, Pennsylvania held on the 25<sup>th</sup> day of Sept. , 1986.

BOARD OF SUPERVISORS OF THE TOWNSHIP OF  
MARION, BERKS COUNTY, PENNSYLVANIA

Richard A. Diller

Harold E. Zeckman

Wilmer R. Dreibell

Attest:

Doris E. Ymberger  
Secretary