

ARTICLE XIV



ADMINISTRATION AND MODIFICATION

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Section 1401 Amendments

The County Commissioners of the County of Clearfield may from time to time revise, modify and amend this Ordinance by appropriate action in accordance with the Pennsylvania Planning Code, Act 247, as amended.

Section 1402 Filing Fee

1402.1 The filing fee shall be as fixed by the Planning Commission by Resolution of the Board of the County Commissioners. Any additional costs of review, design, inspection or maintenance by County and Local Municipal Officials shall be borne by the applicant.

1402.2 The applicant shall reimburse the municipality for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by Ordinance or Resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.

- A. In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within ten (10) working days of the date of billing, notify the municipality that such expenses are disputed as unreasonable or unnecessary, in which case the municipality shall not delay or disapprove a subdivision or land development application or any approval, or permit related to development due to the applicant's request over disputed engineer expenses.
- B. If, within twenty (20) days from the date of billing, the municipality and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and municipality shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.
- C. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within fifty (50) days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

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

Section 1403 Records

The Commission shall maintain an accurate public record of all plans upon which it takes action and of its findings, decisions, and recommendations in relation thereto.

Section 1404 Appeals

In any case where the Planning Commission disapproves a subdivision plan, any person aggrieved thereby may, within thirty (30) days thereafter, appeal to the Court of Common Pleas of Clearfield County, Pennsylvania in accordance with Article X-A of the Pennsylvania Municipal Planning Code.

Section 1405 Validity

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance as a whole, or any individual part thereof.

Section 1406.1 Preventive Remedies

- A. In addition to other remedies, the County 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.

The County 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 or preceding regulations of the County of Clearfield. This authority to deny such a permit or approval shall apply to any of the following applicants:

1. The owner of record at the time of such violation.
2. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the County may require compliance with the condition that would have been applicable to the property at the time the applicant acquired an interest in such real property.

Section 1406.2 Enforcement Remedies

- A. Any person, partnership or corporation who or which has violated the provisions of this Subdivision and Land Development Ordinance enacted under the Pennsylvania Municipal Planning Code or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the County of Clearfield, pay a judgment of not more than five hundred dollars (\$500), plus all court costs, including reasonable attorney fees incurred by the County of Clearfield as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the County of Clearfield 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 district justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem 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 municipality the right to commence any action for enforcement pursuant to this section.

Section 1407 Modification of Regulations

- 1407.1** The County Commissioners may grant a modification of the requirements of one (1) or more provisions of this Ordinance if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this Ordinance is observed.
- 1407.2** All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonable unreasonableness or hardship on which the request is based, the provision or provisions of the Ordinance involved, and the minimum modification necessary.
- 1407.3** The Planning Commission shall keep a written record of all action on all requests for modification.
- 1407.4** The Planning Commission may submit advisory comments on the request for modification. If the County Commissioners approve the request for modification, it shall authorize the minimum modification from this Ordinance that will afford relief. Approved modifications must be recorded on the plan.

Section 1408 Conflict

Whenever there is a difference between the minimum standards or dimensions specified herein and those contained in other regulations, resolutions or ordinances of the County, the highest standards shall govern.