

9 ADMINISTRATION **DRAFT 9.2.16 WITH PROPOSED EDITS 10.3.16**

9.1 REVIEW AGENCIES

9.1.1 DESIGNATION OF ADMINISTRATOR

A. The various provisions of this ordinance shall be administered under the general direction of the County Administrator and under the specific direction of the Lancaster County Planning Department, Lancaster County Zoning Department, Lancaster County Public Works Department, Lancaster County Building Department, and the Fire Marshal. For the purposes of this ordinance, the Planning Director, the Zoning Official, the Public Services Director, the Building Official, Fire Marshal, and Public Safety Commission Director and their designees are collectively referred to as the Administrator. The Planning Department will serve as the “gatekeeper” for all development applications and will advise applicants on appropriate personnel to contact. Each responsible party designated as the Administrator will review and approve compliance with all Local, State, and Federal development regulations within their area of responsibility. As such, each designated party shall have the following general roles:

- 1. Planning Director:** Review and approve compliance with land use, zoning, design and subdivisions standards, and review for compliance with the adopted Lancaster County Comprehensive Plan policies.
- 2. Zoning Official:** Review and approve compliance with zoning, floodplain, and stormwater.
- 3. Public Works Director:** Review of public services including streets and stormwater and approve compliance with the policies and standards in the Manual of Specifications, Standards, and Design (MSSD).
- 4. Building Official:** Review and approve compliance with building codes certificates of occupancy.
- 5. Fire Marshal:** Review of public services related to fire and approved compliance with the Fire Code, as amended.
- 6. Public Safety Director:** Review and approve new road names and addressing and review name changes.

B. POWERS AND DUTIES

In addition to the powers and duties set forth for the Administrator elsewhere in this ordinance and in other laws and regulations of the County, the Administrator shall have the following specific powers and duties, to be carried out in accordance with the terms of this ordinance:

- 1.** To enforce the provisions of this ordinance, unless otherwise specified.
- 2.** To review all applications for land development for compliance with the terms of this ordinance.
- 3.** To provide the Lancaster County Council, the Planning Commission, and the Board of Zoning Appeals (BZA) with reports and recommendations regarding matters before these bodies, either as required by this ordinance, other laws or regulations, or at the request of the body.
- 4.** To maintain a record of all permits and approvals on file and to make copies available to interested parties.
- 5.** To enact the corrective procedures outlined within this chapter for violations of this ordinance.

9.1.2 COUNTY COUNCIL

A. POWERS AND DUTIES

Lancaster County Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To conduct any and all business in accordance with their Charter and South Carolina General Statutes.
2. To amend the Comprehensive Plan and other plans, as necessary.
3. UDO Decisions: The County Council shall render final decisions regarding the following permits types:
 - a Text Amendments
 - b Map Amendments/Rezoning
 - c Conditional Uses
 - d Mixed-Use Districts Master Development Plans
 - e Development Agreements

9.1.3 TECHNICAL REVIEW COMMITTEE

A. POWERS AND DUTIES

Lancaster County's Technical Review Committee (TRC) shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To assist in the establishment of technical requirements for all applications, including: submission schedules, size and number of drawings, type of media, etc.
2. **UDO Review:** The Technical Review Committee shall serve as the reviewing entity for the following permit types:
 - a Site Plan
 - b Minor Subdivisions Preliminary Plats
 - c Major Subdivision Preliminary Plats
 - d Minor Subdivision Final Plat
 - e Major Subdivision Final Plat
 - f Mixed-Use Districts/Master Development Plans
 - g Development Agreements
3. **UDO Decisions:** The Technical Review Committee shall render final decisions regarding the following permits types:
 - a Minor Subdivisions Preliminary Plats
 - b Minor Subdivision Final Plat
 - c Major Subdivision Final Plat
 - d Site Plan
 - e All previously approved plats.

B. MEMBERSHIP

1. The Technical Review Committee shall be chaired by the Planning Department Director (or designee) and shall consist of members of technical staff and representatives of various County departments that include Zoning, Public Works, Building, Fire Marshal, Public Safety Director, and two outside agencies that include Lancaster County Water and Sewer and SCDOT.
2. Other representatives from the following departments and outside agencies may also serve as members of the Technical Review Committee upon request of the Committee Chair:
 - a. Parks and Recreation
 - b. Economic Development
 - c. Lancaster County School District
 - d. Lancaster County Natural Gas Authority
 - e. SC Department of Health and Environmental Control (SCDHEC)

9.1.4 PLANNING COMMISSION**A. POWERS AND DUTIES**

Lancaster County Planning Commission shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

1. To perform studies and surveys of the present conditions and probable future development of the County and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, etc.
2. Study the resources and needs of the County and prepare maps and plans for the systematic future development and betterment of the County.
3. To formulate and recommend to the County Council the adoption and amendment of a Comprehensive Plan and other plans, as necessary.
4. **UDO Review:** The Planning Commission shall review and make recommendations regarding the following permit types:
 - a. Text Amendments
 - b. Map Amendments/Rezoning
 - c. Conditional Uses
 - d. Mixed-Use Districts/Master Development Plans
 - e. Development Agreements
5. **UDO Decisions:** The Planning Commission shall render final decisions regarding the following permits types after proper referral and consideration of recommendations and requirements from appropriate Federal, State, and Local Agencies:
 - a. Preliminary Plat
 - b. Street Name Changes
6. The Planning Commission shall also have any additional powers and duties as may be set forth in other laws and regulations or at the direction of the County Council.

B. MEMBERSHIP AND QUORUM

1. The Planning Commission shall consist of 7 members. A quorum shall consist of a simple majority of the current membership of the board. Vacant seats shall not be counted for the purpose of determining a quorum.
2. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.
3. The Lancaster County Council shall appoint 7 members representing each Lancaster County Council District.
4. Vacancies occurring in the membership of the Planning Commission, other than through the expiration of terms, shall be filled for the unexpired term.
5. All members shall serve 4 year terms and may succeed themselves but may not serve more than 2 consecutive full terms.
6. Membership terms shall continue to be staggered so that the Planning Commission will always be served by experienced members.
7. A chairman, and other officers as determined by the Planning Commission, shall be elected in accordance with the adopted rules of procedure. The elected chairman shall preside over the Planning Commission. The term of chairman shall be one year, with eligibility for reelection.
8. All members of the Planning Commission shall have equal rights, privileges, and duties in all matters.

9.1.5 BOARD OF ZONING APPEALS**A. POWERS AND DUTIES**

The Lancaster County Board of Zoning Appeals shall have the following powers and duties to be carried out in accordance with the terms of this ordinance:

1. To hear and decide appeals from any order, requirement, permit, decision, or determination issued by an administrative officer of the County in enforcing any provisions of this ordinance.
2. To interpret zoning maps and pass upon disputed questions of lot lines, district boundary lines, and similar questions as they arise in the administration of this ordinance.
3. **UDO Decisions:** The Board of Zoning Appeals shall render final decisions regarding the following permits types:
 - a Appeal of any Administrative Decisions
 - b Variances
4. The Board of Zoning Appeals shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the County Council.

B. MEMBERSHIP AND QUORUM

1. The Lancaster County Board of Zoning Appeals shall consist of 7 members representing each Lancaster County Council District.
2. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for the purpose of determining whether or not a quorum is present.

3. Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the remainder of the unexpired term by the body making the original appointment.
4. All members of the Board shall have equal rights, privileges, and duties in all matters, regardless of whether the matters arise within the County or within the extraterritorial area.
5. All members shall serve 4 year terms and may succeed themselves but may not serve more than 2 consecutive full terms.
6. Membership terms shall continue to be staggered so that the Board will always be served by experienced members.
7. Officers shall be elected in accordance with the adopted rules of procedure.

9.1.6 MEETINGS AND GENERAL PROCEDURES

A. ALL MEETINGS TO BE OPEN

All meetings of bodies under this ordinance shall be open to the public in accordance with SC Freedom of Information Act and shall be conducted in accordance with the procedures set forth in the South Carolina Code of Laws, Title 30, Public Records, Chapter 4, as amended.

B. RULES OF PROCEDURE

All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning Department and shall be made available to the public.

C. MINUTES

Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

D. MEETINGS

1. All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.
2. Special meetings may be called at any time by the chairperson or by request of a majority of members of a board or commission in accordance with that group's adopted rules of procedure.

E. CONFLICTS OF INTEREST

Members of boards and commissions shall not vote on recommendations, permits, approvals, or other issues where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. No member shall be excused from voting except upon those matters as noted above or upon those others involving the consideration of his or her own financial interest or official conduct.

9.1.7 STAFF

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the County may provide legal and procedural assistance when requested.

9.1.8 ATTENDANCE / MALFEASANCE POLICY

All members shall attend board/commission meetings on a regular basis. If any member misses more than 3 meetings in one calendar year, he/she may be replaced at the discretion of the appointing

authority. The appointing authority will take into consideration any extraordinary circumstances of board/commission members.

Members of boards/commissions may, after public hearing, be removed by the appointing authority for inefficiency, neglect of duty, or malfeasance in office. The appointing authority shall file a written statement of reasons for such removal.

9.2 REVIEW PROCEDURES

9.2.1 PURPOSE AND INTENT

In order to establish an orderly process to develop land within Lancaster County consistent with standard development practices and terminology, it is the purpose of this chapter to provide a clear and comprehensible development process that is fair and equitable to all interests, including the applicants, affected neighbors, County staff and related agencies, and the County Council.

9.2.2 GENERAL PROVISIONS AND APPLICABILITY

The provisions of this chapter shall be applicable to all development activity under the jurisdiction of Lancaster County.

A. NO CONSTRUCTION TO COMMENCE WITHOUT PERMIT

No land shall be used or occupied, no use shall be established, and no structures shall be erected, moved, extended, or enlarged, nor shall any excavation or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate permit which will certify that the proposed work is in conformity with the provisions of this ordinance.

B. FEE SCHEDULE

As warranted, the County shall adopt as part of their annual budgeting process, a schedule of fees for application and processing as specified in this ordinance.

C. APPLICATION COMPLETENESS REVIEW

1. **Application Deadline:** Applications shall be submitted to the Administrator in accordance with submittal dates.
2. **Evidence of Authority:** The Administrator may require an applicant to present evidence of authority to submit the application.
3. **Application Filing Date:** An application shall be considered as “filed” or “submitted” on the date it is received if it is found to be complete and sufficient for processing by the Administrator.
4. **Application Sufficiency to be Determined by the Administrator:** The Administrator shall review the application and accompanying evidence and thereafter determine if the application is complete and sufficient for processing. The presumption shall be that all of the information required for an application to be considered complete and sufficient for processing is, according to the appropriate permit type, and in the “Application Submittal Requirements” list on file in the Planning Department. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. In general, an application shall be complete and sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this ordinance.
5. **Application Processing:** Applications deemed to be sufficient for processing shall be scheduled for review in accordance with the Permit/Process Type Table below. If, in the opinion of the Administrator, a submittal at any stage of review is incomplete, the

application shall be removed from the agenda of the appropriate board/commission and not further processed until deemed complete and sufficient for processing. At any stage of review, the Administrator or any County board or commission, may require, at the applicant's expense, the submission of any plan, study, or other information, in addition to that specified in the submittal requirements, in order to determine the development as proposed will comply with all of the requirements of this ordinance.

9.2.3 PERMIT/PROCESS TYPE TABLE

Permit/ Process Type	Section	Permit/ Process Type	Reviewing Agency	Public Notification	Approving Agency	Appeal Process	Permit Period	Permit Extension
UDO Compliance Certificate Zoning Permit	9.2.7.A	Administrative	Admin	None	Admin	BZA	6 months	6 months
Temporary Use Permit	9.2.7.B	Administrative	Admin	None	Admin	BZA	See Chapter 5	n/a
Certificate of Occupancy	9.2.7.C	Administrative	Admin	None	Admin	BZA	n/a	n/a
Modification of Dimensional Standards	9.2.7.D	Administrative	Admin	None	Admin	BZA	n/a	n/a
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	Administrative	Admin	None	Admin	BZA, SCDHEC	3 years	Re-submit
Stormwater Management Permit	9.2.8.B	Administrative	Admin	None	Admin	BZA	1 year	1 year
Floodplain Development Permit	9.2.8.C	Administrative	Admin	None	Admin	BZA	1 year	Re-submit
Site Plan	9.2.9.A	Administrative	TRC	None	TRC	PC	1 year	1 year
Subdivision (Minor & Recombination)	9.2.10.A	Administrative	TRC	None	TRC	BZA	180 days to record Plat	n/a
Subdivision (Major) – Preliminary Plat	9.2.10.B	Administrative	TRC	Yes (1,2,3)	PC	CP	2 years to Final Plat	1 year
Subdivision (Major) – Final Plat	9.2.10.C	Administrative	TRC	None	TRC	BZA	60 days to record Plat	n/a
Street Names	9.2.11	Administration	PC	Yes (1,2,3)	PC	CP	n/a	n/a
Variances	9.2.12	Quasi-Judicial	BZA	Yes (1,2,3)	BZA	CP	30 days to Appeal	n/a
Special Exceptions	9.2.13	Quasi-Judicial	BZA	Yes (1,2,3)	BZA	CP	2 years	6 months
Appeal of Administrative Decisions	9.2.14	Quasi-Judicial	BZA and/or PC	Yes (1,2,3)	BZA	CP	30 days to Appeal	n/a
Text Amendments & Rezoning	9.2.15	Legislative	TRC, PC	Yes (1,2,3)	County Council	CP	n/a	n/a
Conditional Use	9.2.16	Legislative	PC	Yes (1,2,3)	County Council	CP	May be rescinded	n/a
Mixed-Use District/Master Development Plan	9.2.9.B	Legislative	PC	Yes (1,2,3)	County Council	CP	2 years	1 year
Development Agreements	9.2.17	Legislative	TRC, PC	Yes (1,2)	County Council	CP	n/a	n/a

Admin – Administrator \ County Council | TRC – Technical Review Committee \ PC – Planning Commission \ BZA – Board of Zoning Appeals \ SCDHEC – South Carolina Department of Health and Environmental Control \ CP – Court of Common Pleas

9.2.4 PUBLIC NOTIFICATION

The following procedures have been established for development applications/petitions that require notification of the public prior to consideration and/or approval.

A. LEVEL 1 – FREEDOM OF INFORMATION ACT LIST

- 1. Required Notification Type:** A notice of the pending application/meeting shall be posted in a prominent location in the County Administration Building and on the County's website, and a notice of such meeting shall be sent to each person and media provider that has filed a written request for notice with the Clerk to Council. Non-media members may join this list

on an annual renewal basis beginning January 1 of each year. Members of this distribution list must renew their participation in this distribution on an annual basis.

2. **Delivery Method:** Notices shall be distributed by email unless otherwise stipulated by members of the list..
3. **Required Period of Notice:** This notice shall be posted and mailed, e-mailed, or delivered at least 24 hours before the time of the meeting.

B. LEVEL 2 – GENERAL NOTICE IN NEWSPAPER

1. **Required Notification Type/Delivery Method:** The County shall publish a notice in a newspaper of general circulation. The notices shall include the time, place, and date of the hearing/meeting and include a description of the property and the nature of the proposal.
2. **Required Period of Notice – All Other Hearings:** The County shall publish a notice prior to the hearing date. The publication shall appear 15 calendar days prior to the hearing date or 30 calendar days per SC Code Title VI, as amended.

C. LEVEL 3 – NOTIFICATION TO AFFECTED AND ADJACENT PROPERTY OWNERS

1. **Mailed Notice**
 - a. **Required Notification Type:** The County shall serve notice by first class mail of the hearing/meeting to each of the following: owners of all property affected by a pending action, all abutting properties as identified by the County tax records, and all properties on all sides of the subject property (including across any adjacent streets). The notices shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal.
 - b. **Required Period of Notice – All Other Hearings:** Such notification shall be postmarked at least 15 and no more than 30 calendar days prior to the date of the meeting at which the matter is to be heard.
2. **Published Notice – Full Community Notification:** As an alternative, to the mailed notice requirements in the above paragraph, the County may elect to serve notice through a full community notification for pending actions that affect at least 50 properties or more with at least 50 different property owners or more.
 - a. **Required Notification Type:** The County shall publish notice of the hearing/meeting in a newspaper of general circulation in the County. Two advertisements shall be published in separate calendar weeks. Each advertisement shall not be less than ½ of a newspaper page in size. The County may elect to provide notification via digital media, such as webpage, emails, and social media.
 - b. **Mailed Notice Required Outside Newspaper Circulation Area:** The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.
3. **Posted Notice:** In addition to providing mailed notice or published notice, as required in paragraphs A and B above, the County shall place a sign in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way with a notice of the pending action and a phone number to contact for additional information.
4. **Additional Requirements for Third Party Re-Zonings:** Except for a County-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Administrator that the owner of the parcel of

land as shown on the County tax listing has granted authority for a third-party rezoning request. Both the property owner and third-party will be notified of public hearings and decisions.

D. NEIGHBORHOOD MEETING

Neighborhood meetings are optional, but may be encouraged by the Administrator for certain applications prior to any public hearing or review by a board or commission. Neighborhood meetings allow the applicant to explain the proposed project and hear the concerns of the neighborhood. A summary of the meeting in the form of meeting notes or minutes along with a list and contact information for all attendees may be submitted to the Administrator and/or the appropriate board or commission for their review. Lancaster County is not responsible for organizing or coordinating such neighborhood meetings.

9.2.5 APPLICATION REQUIREMENTS

The following general standards for various applications are intended to require only that data/information necessary to render an informed decision by the reviewing agency. The County has determined that it is unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The “Application Submittal Requirements” list on file in the Planning Department is intended to provide further guidance to applicants as to the necessary level of detail for each application component listed below.

Permit/ Process Type	Section	Site Analysis	Sketch Plan *	Preliminary Plat	Construction Documents	As-Built Drawings	Final Plat	Building Elevations	Sedimentation & Erosion Control Plan	Floodplain Development Plan
UDO Compliance Certificate Zoning Permit	9.2.7.A		X (a)							
Temporary Use Permit	9.2.7.B		X (a)							
Certificate of Occupancy	9.2.7.C	See Administrator								
Modification of Dimensional Standards	9.2.7.D		X							
Sedimentation & Erosion Control Plan/Grading Permit	9.2.8.A	X			X				X	
Stormwater Management Permit	9.2.8.B	X			X	X	X (a)		X	
Floodplain Development Permit	9.2.8.C	X			X	X				X
Site Plan	9.2.9.A	X		X	X			X (a)		
Subdivision (Minor & Recombination)	9.2.10.A	X	X (a)	X			X			
Subdivision (Major) – Preliminary Plat	9.2.10.B	X	X	X	X					
Subdivision (Major) – Final Plat	9.2.10.C					X	X			
Street Name Changes	9.2.11	See Administrator								
Variances	9.2.12	See Administrator								
Special Exceptions	9.2.13	X (a)		X (a)				X (a)		
Appeal of Administrative Decisions	9.2.14	See Administrator								
Text Amendments & Rezoning	9.2.15	See Administrator								
Conditional Use	9.2.16	See Administrator								
Mixed-Use District/Master Development Plan	9.2.9.B	X	X					X	X	X
Development Agreements	9.2.17	See Administrator								

X - Required | X (a) – on an “as needed” basis as determined by the Administrator

*Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance ~~Compliance Certificates~~ [Zoning Permit](#) (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.

A. SITE ANALYSIS

A site analysis is intended to identify forest stands or trees of a uniform size and species; specimen trees of varying sizes and species, particularly free standing or open-grown or field grown trees; a distinctive tree line or forest edge; existing watercourses; previously documented Federally and State recognized endangered species habitats; and historic or culturally significant areas. Identification of existing trees, understory vegetation, wetlands, perennial streams, floodplains, and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing and environmentally sensitive areas. This requirement provides the County and the applicant the ability to evaluate the proposed development in order to preserve vegetation, to improve the appearance of the development proposed and to encourage the use of the existing forest and tree canopy, specimen trees, and significant vegetation to satisfy the requirements of this ordinance. It is the expectation that readily available spatial data, including GIS information, will be sufficient for this survey.

B. SKETCH PLAN

The Sketch Plan shall show in simple line drawing form the proposed layout of streets, lots, buildings, civic spaces and other features in relation to existing conditions based upon the size of the tract proposed for development. Sketch Plans for districts requiring design review shall also indicate the type, size and design of materials proposed and also the construction techniques to be used. Sketch Plans shall be reviewed as binding documents for Unified Development Ordinance ~~Compliance Certificates~~ (Zoning Permits), and for any other permits or approvals for which the Administrator requires only a Sketch Plan to be submitted with the application. Sketch Plans shall be used for non-binding review for all other development application processes in which they are required.

C. PRELIMINARY PLAT

The Preliminary Plat is intended to provide a detailed two-dimensional drawing that illustrates all of the required site features including buildings, parking areas, streets locations, street sections, conceptual size and location of on-site stormwater facilities, rights-of-way, easements, property lines and setbacks, required or proposed watercourse buffers, site landscaping and lighting (in conceptual form), and all related development calculations (e.g., density, proposed building areas, number of parking spaces, impervious surface allocation, etc.) in sufficient detail to show compliance with this ordinance. Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for Preliminary Plats. Preliminary Plats shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

D. CONSTRUCTION DOCUMENTS

The Construction Documents for Site Plans and Subdivision Plans shall constitute a full and complete set of engineered drawings necessary for final permitting and construction. All streets, utilities, and stormwater, and other infrastructure systems shall be designed and constructed in accordance with the adopted specifications, standards and design. Construction Documents shall be prepared by a licensed professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

E. AS-BUILT DRAWINGS

The “as-built” plans shall show the final design specifications for all public infrastructure in accordance with Appendix C, Lancaster County Manual of Specifications, Standards and Design (MSSD). The designer of the infrastructure shall certify, under seal, that the installed infrastructure is in compliance with the approved plans and designs and with the requirements of this ordinance. A final inspection and approval by the Administrator shall occur before the release of any performance securities. As-Built Drawings shall be prepared by a licensed

professional land surveyor, licensed architect, licensed landscape architect or licensed engineer.

F. FINAL PLAT

The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of South Carolina and shall meet the requirements of the Lancaster County Register of Deeds Office. The final plat shall constitute an accurate survey of the entire phase as shown on the approved preliminary plat and shall include all the relevant notes and certifications.

G. BUILDING ELEVATIONS

In order to reasonably evaluate the building, it is necessary to submit scaled drawings of each elevation visible from a street or civic space. These drawings are not required to be in color but should accurately represent the building heights, floor levels, and building materials, and should include written identification of building materials. If necessary, the Administrator may require up to 3 drawings from different perspectives that will show how the building fits into the context of the block or surrounding developments. Elevations for renovated buildings should focus on illustrating the proposed changes in relation to the existing structure.

H. SEDIMENTATION AND EROSION CONTROL PLAN

The Sedimentation and Erosion Control Plan shall constitute a full and complete set of engineered drawings necessary for the issuance of a grading permit to assure that land-disturbing activity undertaken in Lancaster County does not result in accelerated erosion and sedimentation. The Sedimentation and Erosion Control Plan shall be submitted as a part of the review process.

I. FLOODPLAIN DEVELOPMENT PLAN

A plot plan drawn to scale shall be submitted to the Administrator prior to any development activities proposed to be located within flood prone areas.

9.2.6 GENERAL REQUIREMENTS FOR QUASI-JUDICIAL HEARINGS AND DECISIONS

A quasi-judicial decision is a process that involves the finding of facts regarding a specific application of an ordinance and the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include decisions involving variances, special exception permits, and appeals of administrative determinations. Decisions on the approval of site plans and subdivisions are quasi-judicial in nature if the ordinance authorizes a decision-making board or commission to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings of fact to be made by the decision-making board. As a result, the following standard procedures shall be incorporated to guide all quasi-judicial proceedings as appropriate.

A. STANDARDS FOR CONDUCT OF QUASI-JUDICIAL HEARINGS

- 1. Contact with Decision-Making Board Members:** Contact with any members of a decision-making Board prior to the public hearing by any individual regarding the matter is prohibited.
- 2. All Participants to be Sworn In:** All participants in the public hearing shall be duly sworn in prior to the submission of any testimony.
- 3. Competent Evidence Required:** All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making Board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making Board to rely upon it. The term "competent evidence,"

as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

- a. The use of property in a particular way would affect the value of other property.
 - b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
 - c. Matters about which only expert testimony would generally be admissible under the rules of evidence.
4. **Calculation of Majority Vote:** The required majority necessary to rule in the affirmative on a quasi-judicial proceeding shall be as follows:
- a. A simple majority is required to rule in the affirmative on Special Exceptions Permits, Appeals of Administrative Decision and Variances.
 - b. Absent members, vacant positions on boards/commissions, and members who are disqualified from voting on a quasi-judicial matter, shall not be considered members of the board/commission for the purposes of calculating the requisite majority.

B. STANDARDS FOR DECISIONS

Each decision-making Board under the provisions of this section shall ensure that the rights of applicants have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

1. In violation of constitutional provisions, including those protecting procedural due process rights.
2. In excess of the statutory authority conferred upon the County or the authority conferred upon the decision-making Board by ordinance.
3. Inconsistent with applicable procedures specified by statute or ordinance.
4. Affected by other error of law.
5. Unsupported by substantial competent evidence in view of the entire record.
6. Arbitrary or capricious.

C. RECORD OF DECISION

1. The following shall become part of the official record of decision:
 - A detailing of the specific findings of fact made by the decision-making board;
 - Documents and exhibits submitted to the decision-making board;
 - Meeting minutes.
2. **Transcript of Audio:** Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video.

9.2.7 ADMINISTRATIVE PERMITS

A. UNIFIED DEVELOPMENT ORDINANCE (UDO) COMPLIANCE CERTIFICATE

A ~~Unified Development Ordinance Compliance Certificate (hereafter referred to as "Compliance Certificate")~~ Zoning Permit shall be required for the construction or development of any new use within the land development jurisdiction of Lancaster County, and any other site improvement as indicated in the UDO. In addition to new uses, a ~~Compliance Certificate~~ Zoning Permit shall be required for expansions of existing uses, changes of use, and any uses

permitted with conditional use and special exceptions.

1. Applicability:

- a. For the following application types, a ~~Compliance Certificate~~ Zoning Permit shall be the only development approval required:
 - i. Any residential development with fewer than 5 units (dwelling-single family and dwelling-two families).
 - ii. Any uses permitted with review.
 - iii. Any permit involving the construction, enlargement, placement, or alteration of signage.
- b. All other development in Lancaster County shall require a ~~Compliance Certificate~~ Zoning Permit in addition to other necessary approvals as outlined in this chapter.

2. Process Type: Administrative.

- 3. Pre-Application Procedure:** No meeting is required but, applicants are encouraged to call or visit the Administrator prior to requesting a ~~Compliance Certificate~~ Zoning Permit to determine what information is required for the application.

- 4. Required Application Information:** Sketch Plan and any other relevant information to show compliance (may be waived by Administrator as appropriate).

- 5. Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance.

- 6. Public Notification:** None required.

- 7. Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.

- 8. Permit Validity:** Upon the approval of the ~~Compliance Certificate~~ Zoning Permit, the applicant shall have 6 months to obtain a building permit or otherwise begin the permitted use. Failure to secure building permits for the permitted work within this time shall render the compliance void. Upon issuance of a building permit, the ~~Compliance Certificate~~ Zoning Permit shall remain valid as long as a valid building permit exists for the project. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the ~~Compliance Certificate~~ Zoning Permit and any subsequent building permits.

- 9. Permit Extension:** The Administrator may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

B. TEMPORARY USE PERMIT

A Temporary Use Permit is required for uses permitted in accordance with Chapter 5 prior to the commencement of any use or activity.

- 1. Process Types:** Administrative.

- 2. Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator prior to requesting a Temporary Use Permit to determine what information is required for the application.

- 3. Required Application Information:** Sketch Plan and any other relevant information to show compliance (may be waived by Administrator as appropriate).

- 4. Determination of Conformity:** Once an application is deemed complete by the Administrator, the Administrator shall review the application and approve, approve it with

conditions, or deny it based on compliance with the land development standards contained in this ordinance.

5. **Public Notification:** None required.
6. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.
7. **Permit Validity:** See Chapter 5.
8. **Permit Extension:** See Chapter 5.

C. CERTIFICATE OF OCCUPANCY

Issuance of a Certificate of Occupancy (hereafter referred to as “CO”) shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation in Lancaster County. COs insure that a completed development project has complied with all the applicable requirements of the International Building Code, as amended, and all other applicable federal, state and local regulations. COs must be signed by building inspections staff and the Administrator to certify compliance with applicable regulations.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Not required.
3. **Required Application Information:** None.
4. **Determination of Conformity:** Upon receipt of the request for a CO, the building official and Administrator shall inspect the project site for compliance with the approved site plan or subdivision plat and the applicable standards of this chapter and the International Building Code, as amended. The applicant shall be notified of any deficiencies in the building(s) or site that prevents the issuance of the CO, otherwise the CO shall be issued. If final improvements are complete for only a portion of the development, the Administrator, at his/her discretion, may grant a partial CO that allows for a proportional release of the development for occupation.
5. **Public Notification:** None required.
6. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.
7. **Permit Validity:** N/A.
8. **Permit Extension:** N/A.

D. ADMINISTRATIVE MODIFICATION OF DIMENSIONAL STANDARDS

In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, the Administrator is authorized to approve certain requests for deviation from dimensional standards.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Not required.
3. **Required Application Information:** Sketch Plan and any other relevant information to demonstrate undue and unnecessary hardship (may be waived by Administrator as appropriate).
4. **Conditions for Modification of Setbacks:** Requests for the deviation from required

setbacks set forth in this ordinance by up to 10 percent of the required setbacks or 24 inches, whichever is greater, but no more than 24 inches, may be considered upon determination that one or more of the following conditions exists:

- a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally-established wall or walls of a principal structure already within the minimum setback area.
 - b. The part of the proposed structure that would encroach into the minimum setback area is less than 50 percent of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as a chimney).
 - c. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.
 - d. The proposed structure will allow the preservation of significant existing vegetation.
 - e. A good faith error was made in the location of a building foundation not exceeding 24 inches due to either field construction or survey error.
5. **Limitation on Administrative Discretion:** The Administrator has no discretion to modify any requirements found in Chapter 5.
 6. **All Decisions to be in Writing:** Prior to rendering a decision, the Administrator shall notify the County Administrator in writing of any minor deviation for approval.
 7. **Administrative Authority is Permissive Only:** The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory, and the Administrator may decline to make such modification. In the event denial occurs, the applicant shall have the right to submit an application to the Board of Zoning Appeals to grant a variance to these requirements. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this chapter, or an applicant's right to apply for a variance.

9.2.8 ENVIRONMENTAL PROTECTION PERMITS

A. SEDIMENTATION AND EROSION CONTROL PLAN/GRADING PERMIT

1. **Applicability:** To assure that land-disturbing activity undertaken in Lancaster County does not result in accelerated erosion and sedimentation, no such land-disturbing activity shall take place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below. Land-disturbing activity on development 1 acre or greater in area shall also require approval of a Sedimentation and Erosion Control Plan.
2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** Prior to applying for a Grading Permit and submitting plans, the applicant is required to meet with the Administrator. The purpose of this meeting is to discuss the project, the proposed land development strategies, and to answer questions of the applicant regarding the application and schedules for review.
4. **Required Application Information:** Site Analysis (may be waived by Administrator as appropriate) & Construction Documents. For applications involving development of 1 acre or greater a Sedimentation and Erosion Control Plan shall also be required according to the

review and approval procedures set out for such plans in this chapter.

5. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted.
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals at its next regularly scheduled meeting, but not less than 21 days, after receipt of written notice of disapproval or conditional approval that is unsatisfactory to the applicant. Appeals from the decision of the Board of Zoning Appeals may be taken to the South Carolina Department of Health and Environmental Control (SC DHEC).
8. **Permit Validity:** When work under a Grading Permit is not initiated within 3 years following the date of issuance of the Grading Permit, the Grading Permit shall be deemed expired.
9. **Permit Extension:** Renewal of an expired Grading Permit shall require the same application procedure as the initial permit. No further grading is to be performed until the new permit is issued.

B. STORMWATER MANAGEMENT PERMIT

To ensure that development in the County does not result in increased stormwater runoff which adversely impacts adjacent property and stormwater systems convey appropriate storm events, no development to which this ordinance applies, shall be commenced without the issuance of a Stormwater Permit by the Administrator.

1. **Process Type:** Administrative.
2. **Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development. This pre-submittal meeting should take place prior to submission of an application for the Preliminary Plat of the subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:
 - a. Existing conditions/proposed site plans;
 - b. Natural resources inventory;
 - c. Stormwater management system concept plan.
3. **Required Application Information:** Site Analysis and Construction Documents (may be waived by Administrator as appropriate). An approved Site Plan or Final Plat may also be required as appropriate.
4. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Once an application is deemed complete and accepted by the Administrator it shall be reviewed and acted on within 30 days of the date it is accepted. The Administrator may impose reasonable conditions upon the issuance of the permit to ensure compliance with this section including, but not limited to, specifications of the materials to be used and the manner in which the work or alteration is to be performed. If the Administrator finds that the application fails to comply with the standards of this section, the Administrator

shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

5. **Public Notification:** None required.
6. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Zoning Appeals.
7. **Permit Validity:** An issued permit shall become null and void if the applicant fails to secure a building permit, record a final plat or initiate construction on the site within 1 year after the date of approval. In addition, when a Stormwater Permit is issued in association with a Preliminary Plat or Final Plat, the Stormwater Permit shall expire if said plan expires, is significantly modified, or is revoked.
8. **Permit Extension:** The Administrator may grant a single extension of this time limit of 1 year, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
9. **As-Built Required:** After final construction of a project is completed, and before a Final Plat is granted, the applicant shall certify that the post-construction stormwater management measures have been completed in accordance with the approved plans and designs by submitting actual "as-built" plans prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. No Final Plat shall be granted without completed as-built plans.

C. FLOODPLAIN DEVELOPMENT PERMIT

1. **Designation of Local Floodplain Administrator:** The Zoning Official or his/her designee is hereby appointed to administer and implement the provisions of this ordinance.
2. **Adoption of Letter of Map Revisions (LOMR):** All LOMRs that are issued in the areas identified in Section [8.1.7.A](#) of this ordinance are hereby adopted.
3. **Development Permit and Certification Requirements:** No approval shall be granted for construction in a Flood Hazard Area Overlay District, as outlined in Chapter 8, without the issuance of a Floodplain Development Permit.
 - a. **Development Permit:** Application for a development permit shall be made to the local floodplain administrator on forms furnished by him or her prior to any development activities. The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:
 - i. A plot plan that shows the 100-year floodplain contour or a statement that the entire lot is within the floodplain must be provided by the development permit applicant when the lot is within or appears to be within the floodplain as mapped by the Federal Emergency Management Agency or the floodplain identified pursuant to either the Duties and Responsibilities of the local floodplain administrator of Section [9.2.8.C.4.k](#) or the Standards for Subdivision Proposals of Section [8.2.2](#) and the Standards for streams without Estimated Base Flood Elevations and Floodways of Section [8.2.3](#). The plot plan must be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. The plot plan must show the floodway, if any, as identified by the Federal Emergency Management Agency or the floodway identified pursuant

to either the duties or responsibilities of the local floodplain administrator of Section [9.2.8.C.4.k](#) or the standards for subdivision proposals of Section [8.2.2.L](#) and the standards for streams without estimated base flood elevations and floodways of Section [8.2.3](#).

- ii. Where base flood elevation data is provided as set forth in Section [8.1.7.A](#) or the duties and responsibilities of the local floodplain administrator of Section [9.2.8.C.4.k](#) the application for a development permit within the flood hazard area shall show:
 - The elevation (in relation to mean sea level) of the lowest floor of all new and substantially improved structures, and
 - If the structure will be floodproofed in accordance with the Non-Residential Construction requirements of Section [8.2.2.B](#) the elevation (in relation to mean sea level) to which the structure will be floodproofed.
- iii. Where base flood elevation data is **not** provided as set forth in Section [8.1.7.A](#) or the duties and responsibilities of the local floodplain administrator of Section [9.2.8.C.4.k](#), then the provisions in the standards for streams without estimated base flood elevations and floodways of Section [8.2.3](#) must be met.
- iv. Alteration of Watercourse: Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include a description of the extent of watercourse alteration or relocation, an engineering study to demonstrate that the flood-carrying capacity of the altered or relocated watercourse is maintained and a map showing the location of the proposed watercourse alteration or relocation.

b. Certifications

- i. Floodproofing Certification: When a structure is floodproofed, the applicant shall provide certification from a registered, professional engineer or architect that the non-residential, floodproofed structure meets the floodproofing criteria in the non-residential construction requirements of Section [8.2.2.B](#) and Section [8.2.5.B.2](#).
- ii. Certification During Construction: A lowest floor elevation or floodproofing certification is required after the lowest floor is completed. As soon as possible after completion of the lowest floor and before any further vertical construction commences, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local floodplain administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by it. Any work done prior to submission of the certification shall be at the permit holder's risk. The local floodplain administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.
- ~~iii. V Zone Certification: When a structure is located in Zones V, VE, or V1-30, certification shall be provided from a registered professional engineer or architect, separate from submitted plans, that new construction and substantial improvement meets the criteria for the coastal high hazard areas outlined in Section ____.~~

- iv. **As-Built Certification:** Upon completion of the development a registered professional engineer, land surveyor or architect, in accordance with SC law, shall certify according to the requirements of Section [9.2.8.C.3.b.i](#), [b.ii](#), [b.iii](#) that the development is built in accordance with the submitted plans and previous pre-development certifications.

4. Duties and Responsibilities of the Local Floodplain Administrator: Duties shall include, but not be limited to:

- a. **Permit Review:** Review all development permits to assure that the requirements of this ordinance have been satisfied.
- b. **Requirement of Federal and/or State Permits:** Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
- c. **Watercourse Alterations**
 - i. Notify adjacent communities and the South Carolina Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - ii. In addition to the notifications required watercourse alterations per Section [9.2.8.C](#), written reports of maintenance records must be maintained to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
 - iii. If the proposed project will modify the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of construction.
 - iv. Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements of Section [9.2.8.C.3.b.iv](#), the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.
- d. **Floodway Encroachments:** Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of Section [8.2.2.E](#) are met.
- e. **Adjoining Floodplains:** Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- f. **Notifying Adjacent Communities:** Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.

g. Certification Requirements

- i. Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in Section [9.2.8.C.3.b.ii](#) ~~or the coastal high hazard area requirements outlined in Section _____.~~
- ii. Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in Section [9.2.8.C.3.b.i.](#)
- iii. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in Section [8.2.2.B.](#)

~~iv. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in the coastal high hazard area requirements outlined in Section _____, Section _____, and Section _____ of this ordinance.~~

- h. **Map Interpretation:** Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- i. **Prevailing Authority:** Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in Section [8.2.2.G.2.](#)
- j. **Use Of Best Available Data:** When base flood elevation data and floodway data has not been provided in accordance with Section [8.1.7.A](#), obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, state, or other source, including data developed pursuant to the standards for subdivision proposals outlined in Section [8.2.2.L](#), in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.
- k. **Special Flood Hazard Area/Topographic Boundaries Conflict:** When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site; the site information takes precedence when the lowest adjacent grade is at or above the BFE, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local floodplain administrator in the permit file will maintain a copy of the Letter of Map Amendment issued from FEMA.
- l. **On-Site inspections:** Make on-site inspections of projects in accordance with the administrative procedures outlined in Section [9.2.8.C.5.a.](#)
- m. **Administrative Notices:** Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in Section [9.2.8.C.5.](#)

- n. **Records Maintenance:** Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- o. **Annexations and Detachments:** Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, State Coordinator for the National Flood Insurance Program within six (6) months, of any annexations or detachments that include special flood hazard areas.
- p. **Federally Funded Development:** The President issued *Executive Order 11988, Floodplain Management May 1977*. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.
- q. **Substantial Damage Determination:** Perform an assessment of damage from any origin to the structure using FEMA's Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
- r. **Substantial Improvement Determinations:** Perform an assessment of permit applications for improvements or repairs to be made to a building or structure that equals or exceeds 50 percent of the market value of the structure before the start of construction. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur

The market values shall be determined by one of the following methods:

- i. The current assessed building value as determined by the County's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner within the past 6 months.
- ii. One or more certified appraisals from a registered professional licensed appraiser in accordance with the laws of South Carolina. The appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, *less the cost of site improvements and depreciation for functionality and obsolescence*.
- iii. Real Estate purchase contract within 6 months prior to the date of the application for a permit.

5. Administrative Procedures

- a. **Inspections of Work in Progress:** As the work pursuant to a permit progresses, the local floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- b. **Stop-Work Orders:** Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order

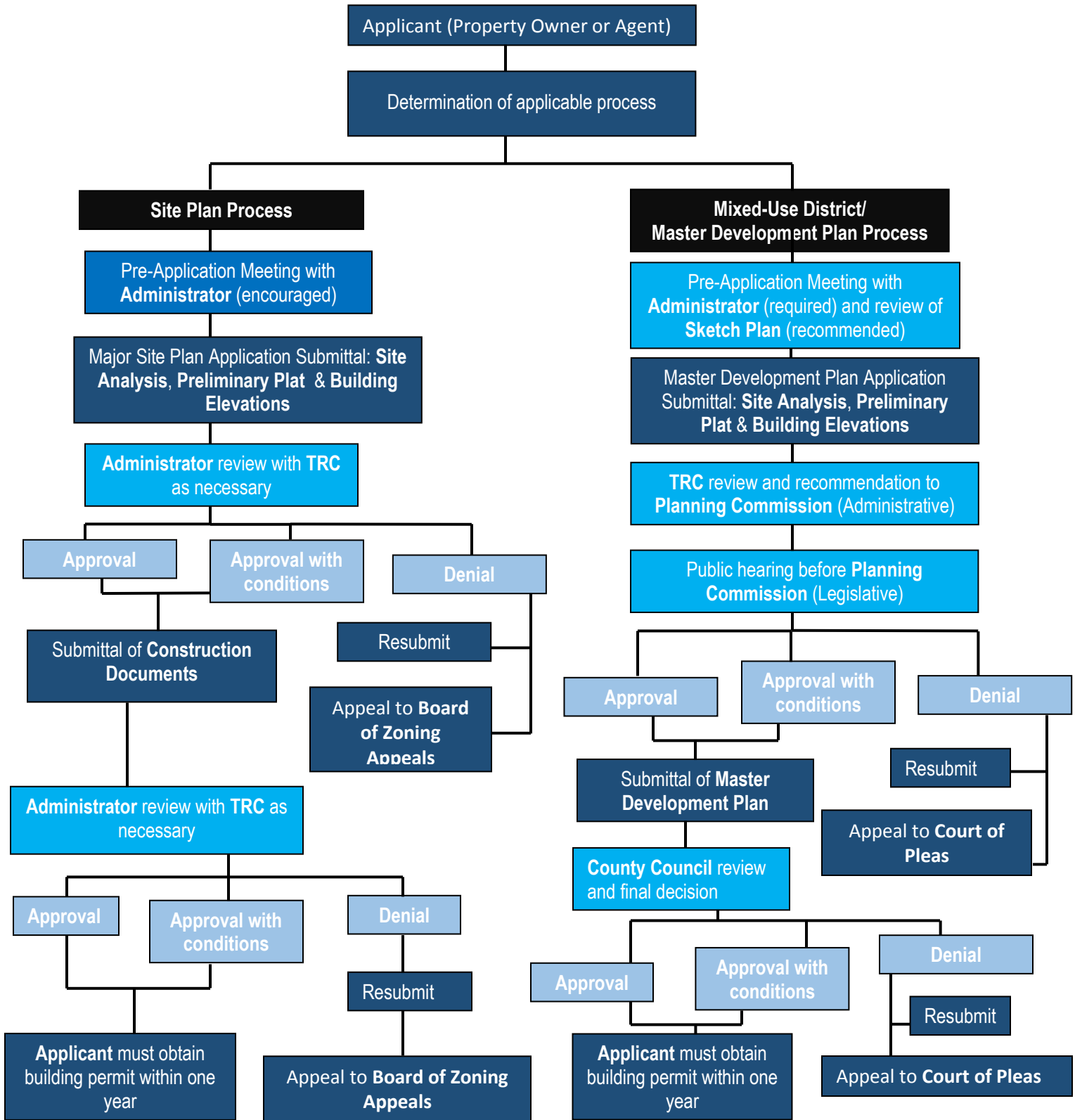
constitutes a misdemeanor.

- c. **Revocation of Permits:** The local floodplain administrator may revoke and require the return of the development permit by notifying the permit holder in writing, stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- d. **Periodic Inspections:** The local floodplain administrator and each member of his/her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- e. **Violations to be Corrected:** When the local floodplain administrator finds violations of applicable state and local laws, it shall be his/her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law on the property he owns.
- f. **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give him written notice, by certified or registered mail to his last known address or by personal service, that:
 - i. The building or property is in violation of the Flood Damage Prevention Ordinance,
 - ii. A hearing will be held before the local floodplain administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - iii. Following the hearing, the local floodplain administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- g. **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the floodplain administrator may prescribe; provided that where the floodplain administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- h. **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- i. **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
- j. **Denial of Flood Insurance under the NFIP:** If a structure is declared in violation of this ordinance and after all other penalties are exhausted to achieve compliance with this

ordinance then the local floodplain administrator shall notify the Federal Emergency Management Agency (FEMA) to initiate a Section 1316 of the National Flood Insurance Act of 1968 action against the structure upon the finding that the violator refuses to bring the violation into compliance with the ordinance. Once a violation has been remedied the local floodplain administrator shall notify FEMA of the remedy and ask that the Section 1316 be rescinded.

- k.** The following documents are incorporated by reference and may be used by the local floodplain administrator to provide further guidance and interpretation of this ordinance as found on FEMA's website at www.fema.gov:
 - i.** FEMA 55 Coastal Construction Manual
 - ii.** All FEMA Technical Bulletins
 - iii.** All FEMA Floodplain Management Bulletins
 - iv.** FEMA 348 Protecting Building Utilities from Flood Damage
 - v.** FEMA 499 Home Builder's Guide to Coastal Construction Technical Fact Sheets

9.2.9 SITE PLAN & MASTER DEVELOPMENT PLAN PROCESS CHART



A. SITE PLAN

1. **Applicability:** The Site Plan process shall apply to all development types for which discretionary review is NOT required unless a discretionary review is requested by the applicant.
2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required, but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations, (may be waived by Administrator as appropriate). and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the Administrator and TRC shall review the application and approve, deny, or approve with conditions the Site Plan based on compliance with the standards contained in this ordinance. All decisions shall be in writing. Following an approval or approval with conditions, the applicant shall be directed to prepare detailed Construction Documents for final approval by the Administrator and TRC (as necessary).
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the Administrator or TRC shall be heard by the Board of Zoning Appeals.
8. **Permit Validity:** Upon the approval of the Site Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Site Plan and any subsequent building permits.
9. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

B. MIXED-USE DISTRICT/MASTER DEVELOPMENT PLAN

1. **Applicability:** The Mixed-Use District/Master Development Plan process shall apply to all development types for which discretionary review is required, and in any other instance where discretionary review is requested by the applicant.
2. **Process Type:** Legislative.
3. **Pre-Application Procedure:** It is required that every applicant for a Mixed-Use District/Master Development Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.
4. **Required Application Information:** Site Analysis, Preliminary Plat & Building Elevations for Design Review (may be waived by Administrator as appropriate). and a Stormwater Permit shall be required as prerequisite approvals as per the following table:

Mixed-Use District Master Development Plan / Required Information	
General Information	
Date, north point, and scale	
Name and firm address of the professional individual responsible for preparing master development plan	
Name and address of the property owner or applicant	
Location sketch	
Legal description of the subject property	
Size of subject property in acres (square feet if less than two (2) acres)	
Boundary survey	
Preparer's professional seal	
Existing Conditions	
Existing zoning classification of subject property	
Property lines and required setbacks (dimensioned)	
Location, width and purpose of all existing easements	
Location and dimension of all existing structures on the subject property	
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	
Abutting street right-of-way width	
Location of all existing structures, driveways, and parking areas within 100 feet of the subject property's boundary	
Location of all existing structures, driveways, and parking areas within 300 feet of the subject property's boundary	
Existing water bodies (lakes, rivers, creeks, wetlands, etc.)	
Existing landscaping and vegetation on the subject property, including a tree survey, if required	
Size and location of existing utilities	
Location of all existing surface water drainage facilities	
Proposed Development	
Location and dimensions of all proposed buildings	
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided), and unloading areas	
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use	
Floodplain areas and basement and finished floor elevations of all buildings	
Landscape plan (showing location of proposed materials, size and type)	
Layout and typical dimensions of proposed parcels and lots	
Number of proposed dwelling units (by type)	
Number and location of affordable dwelling units	
All deed restrictions or covenants	
Brief narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces	
Lighting plan	
Engineering	
Location and size of proposed utilities, including connections to sewer and water supply systems	
Location and spacing of fire hydrants	
Location and type of all proposed surface water drainage facilities	
Grading plan at no more than two foot contour intervals ¹	
Proposed streets (including pavement width, materials, and easement or right-of-way dimensions)	

Mixed-Use District Master Development Plan / Required Information
Building Details
Typical elevation views of all sides of each building type
Gross and net floor area
Elevation views of building additions
Building height
Building materials
Additional Information
Any other information required by the planning director or planning commission to demonstrate compliance with other applicable provisions of this ordinance including, but not limited to, traffic impact analysis, environmental impact assessment and market feasibility studies.

5. **Determination of Completeness:** The Technical Review Committee (hereafter referred to as the “TRC”) shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning Commission.
6. **Public Notification:** Level 1, 2 and 3.
7. **Neighborhood Meeting:** Required.
8. **Public Hearing:** The Planning Commission shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
9. **Decisions/Findings of Fact:** Following the public hearing the Planning Commission may approve, deny, or approve with conditions the application for a Mixed-Use District/Master Development Plan. No Mixed-Use District/Master Development Plan shall be granted unless the following “findings of fact” can be made:
 - a. **Consistency with Comprehensive Plan.** All mixed use development shall be designed, constructed and maintained in conformance with the applicable guidelines and standards established by the Town of Fort Mill Comprehensive Plan.
 - b. **Integration with Transportation System.** Mixed use developments shall be designed to integrate into the adjacent transportation system relative to:
 - i. Pedestrian connections to ensure accessibility to current or future transit service, if applicable;
 - ii. Connectivity to existing and future roadways, sidewalks and pathways;
 - iii. Complete streets roadway design that accommodates multiple transportation modes;
 - iv. Strategic locations of parking lots and structures;
 - v. Compatibility with the regional transportation system of arterials and collectors; and
 - vi. Access management to provide internal connections between uses and prohibit individual driveway access to perimeter roads.
 - c. **Impact on Infrastructure.** The development is staged in a manner that allows for and facilitates the timely provision of public utilities, facilities and services.
 - d. **Compatibility of Uses and Structures.** The mixed use development is planned so land uses and densities create an appropriate transition to existing or planned uses and densities on adjoining properties.
 - e. **General site design:** The following characteristics shall be incorporated into the mixed-use development:

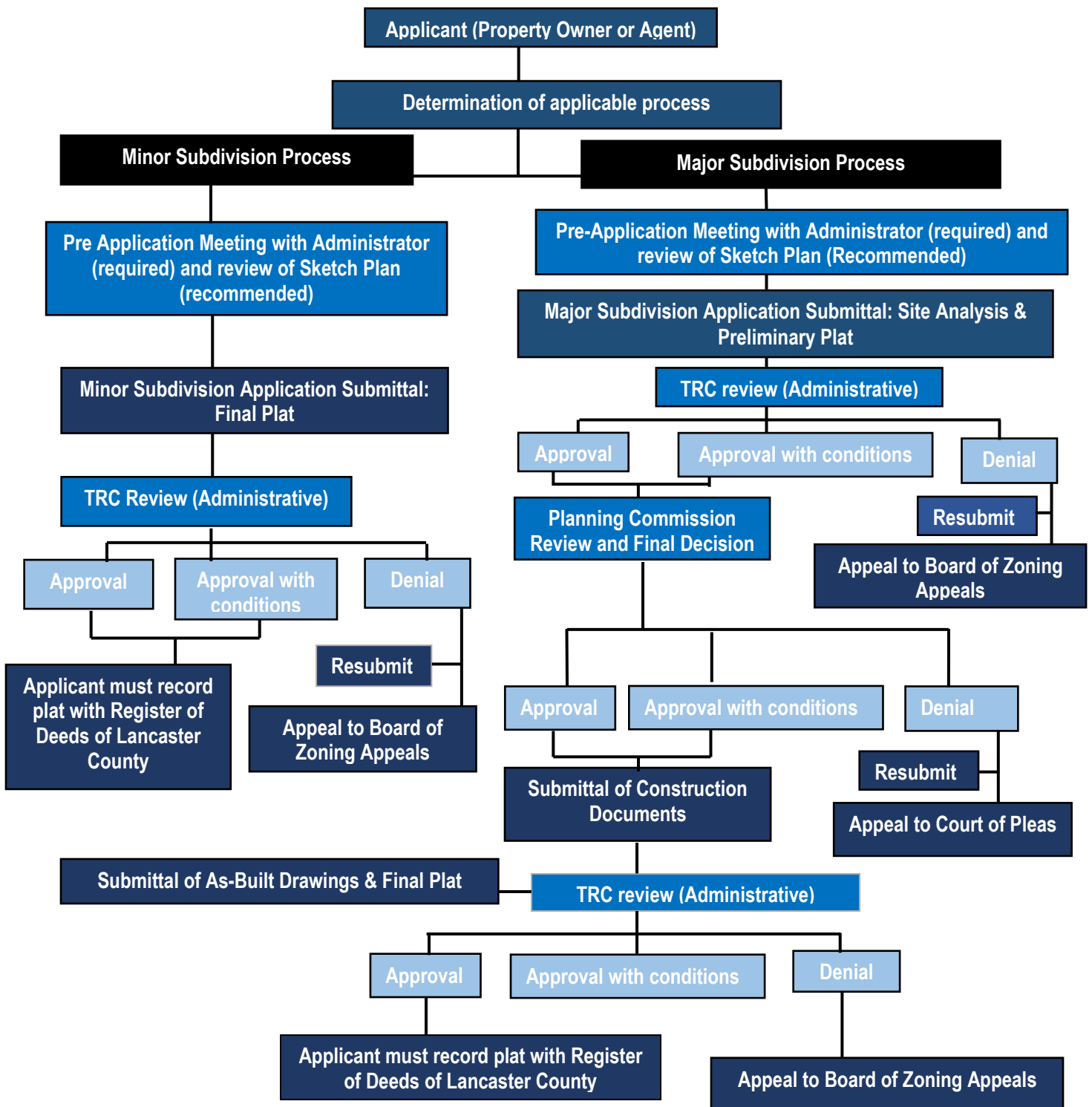
- i. Pedestrian accessibility/concentration of development (critical mass) in a compact, walkable area.
 - Uses are concentrated to promote convenient pedestrian access. Large projects concentrate uses in multiple nodes, each preferably within a quarter-mile diameter.
 - Pedestrian circulation is clearly defined and connects all uses.
 - Bicycle and pedestrian access are provided to adjacent developments.
 - Sidewalks are provided on each side of rights-of-way or private streets throughout the development.
 - Strip commercial development characterized by single story uncoordinated, unconnected buildings with large street frontage parking lots is specifically prohibited. Strip malls with uncoordinated, unconnected out parcels are prohibited. All structures are fully integrated into the mixed use project through common design themes (including, but not limited to, lighting, benches, landscaping, other decorative features but not necessarily building design), integration with a variety of uses, nonlinear arrangement, common spaces, pedestrian walkways, vehicular access connections and other features.
- ii. Plazas, courtyards and other common areas are provided for public gathering and interaction. Amenities, such as benches, planters, lighting, fountains, art and landscaping that further the design theme of the project and encourage interaction shall be provided.
- iii. Mixed use projects require special attention to building design because of the relationship of land uses in close proximity. Functional integration of residential and commercial uses shall be considered during design of mixed use projects. The following standards are intended to guide development of mixed-use projects:
 - The mixed use development shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development through the use of complementary materials, unified streetscape treatment, buffering, connectivity for vehicular and pedestrian movement, building orientation, parking location and height transition.
 - Residential and commercial uses may be located within the same or adjoining structures, provided applicable health and safety regulations are followed.
 - Structures shall provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Structures shall have consistent scale and massing to create a unified project. Compatibility with the immediate context is required. However, gradual transitions in scale and massing are permitted.
 - Blank walls shall be avoided by including ground floor windows, recesses, extensions and breaks in roof elevation.
 - Design shall provide differentiation between ground level spaces and upper stories. For example, bays or balconies for upper levels, and awnings, canopies or other similar treatments for lower levels can provide differentiation. Variation in building materials, trim, paint, ornamentation, windows, or other features such as public art, may also be used.
 - Design shall ensure privacy in residential sectors through effective window placement, soundproofing, landscape screening or orientation of outdoor living areas (e.g., balconies, porches and patios). Opposite

facing windows at close distances should be offset vertically or horizontally, or employ appropriate materials (e.g., glazed or tinted) to protect privacy.

- f. Housing diversity shall be required within the district - At least two (2) different residential types (attached, detached, multiple family, or two family) with a range of prices and sizes shall be incorporated into the development. Single-family lot sizes shall be varied to provide a mixture of lot sizes.
 - g. Permitted flexibility in lot sizes, setbacks, street widths and landscaping shall result in a more livable development, preservation of natural features and creation of open space consistent with the policies of the comprehensive plan and this ordinance.
 - h. Mixed-use developments shall not be gated and shall be interconnected to surrounding developments. Mixed-use projects shall be designed as an integral part of the surrounding community and not as an isolated development.
10. **Review by Planning Commission:** Applications for Mixed-Use District/Master Development Plan shall be acted upon within 90 days after filing, otherwise the application shall be deemed approved and a permit shall be issued. An extension of time may be granted by mutual consent of the Planning Commission and the applicant. Following an approval or approval with conditions, the applicant shall be directed to submit the Mixed-Use District/Master Development Plan for final approval by the County Council.
11. **Appeals:** An appeal from the decision of the County Council regarding a Mixed-Use District/Master Development Plan request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Planning Commission.
12. **Permit Validity:** Upon the approval of the Mixed-Use District/Master Development Plan, the applicant shall have one year to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the ~~Compliance Certificate~~ [Zoning Permit](#) and any subsequent building permits.
13. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

9.2.10 SUBDIVISIONS

SUBDIVISION PROCESS CHART



A. SUBDIVISION (MINOR AND RECOMBINATION)

1. **Applicability:** The Minor Subdivision review process is allowed for any recombination of land and for those divisions of land which:

- do not require dedication of public utilities or public streets, and
- include 10 or fewer acres or subdivide land into 5 or fewer lots, and
- do not result in an increase in the number of lots/parcels included in a subdivision previously approved by Lancaster County, and
- do not involve any other conditions that require any additional approval(s) from any County board or commission, as determined by the Administrator or TRC.

Any division of land which does not meet all of the above criteria shall be required to use the Major Subdivision process, except that multi-family buildings with units under separate individual ownership including, but not limited to, townhome and condominium developments, shall also submit minor subdivision plats after the common walls of the building are established.

2. **Process Type:** Administrative.
3. **Pre-Application Procedure:** No meeting is required but, applicants are encouraged to call, email, or visit the Administrator for clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan to the Administrator prior to or at a pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Minor Subdivision Plan.
4. **Required Application Information:** Final Plat by a registered land surveyor. A Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Minor Subdivision Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Minor Subdivision Plat shall be deemed approved.
6. **Public Notification:** None required.
7. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Zoning Appeals. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
8. **Permit Validity:** Upon approval of a plat for a Minor Subdivision, said plat shall be signed in the appropriate place by the Administrator and the owner(s). Minor Subdivision plats that have been granted approval shall be recorded within 180 days following approval or the approval becomes invalid. A plat for Minor Subdivision must be recorded in the office of the Register of Deeds of Lancaster County. No lots shall be sold prior to approval by the County and the recording of the plat for the subdivision.
9. **Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.

10. **Revisions of Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Minor Subdivision Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in the field construction adjustments shall be subject to approval by the TRC.

B. SUBDIVISION (MAJOR) – PRELIMINARY PLAT

1. **Process Type:** Administrative.
2. **Permit Required Before Any Land Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plat has been approved.
3. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a Sketch Plan to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.
4. **Required Application Information:** Site Analysis & Preliminary Plat and a Stormwater Permit shall be required as prerequisite approvals.
5. **Determination of Compliance:** Once an application is deemed complete by the Administrator, the TRC shall review the application and approve, deny, or approve with conditions the Preliminary Plat based on compliance with the land development standards contained in this ordinance within 65 working days of its submittal. If no action is taken by the Planning Commission within this time period, the Preliminary Plat shall be deemed approved.
6. **Public Notification:** 1, 2, and 3.
7. **Decisions:** Following an approval or approval with conditions of the Preliminary Plat by the Planning Commission, the applicant will be directed to prepare detailed Construction Documents for review by the Administrator and members of the TRC (as necessary). If the TRC disapproves or approves the Construction Documents, the reasons for such action shall be stated in writing. The applicant may make changes and submit a revised plan which revision shall be submitted, reviewed and acted on in accordance with the procedures set forth in this section. Once the applicant secures an approved Preliminary Plat and Construction Documents, the applicant will be directed to proceed to the preparation of a Final Plat.
8. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Zoning Appeals. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner's agent.
9. **Permit Validity:** Approval of a Preliminary Plat shall be valid for 2 years from the date of approval. If the approved Preliminary Plat provides for multiple phases within the subdivision, a Final Plat approval for any one phase shall extend the Preliminary Plat approval for all other phases for a period of up to 2 years from the date of the Final Plat approval for that phase. If a Final Plat approval has not been obtained prior to the end of this 2 year period, the Preliminary Plat approval shall become void.
10. **Permit Extension:** The Administrator may grant a single extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension.

C. SUBDIVISION (MAJOR) – FINAL PLAT

1. **Process Type:** Administrative.
2. **Improvements to Be Installed or Guaranteed:** All required infrastructure improvements shall be either installed or financially guaranteed in accordance with Chapter 6 and all other local, State and Federal regulations.
3. **Revisions of Preliminary Plat After Approval:** Where minor lot line measurements or other minor deviations from the approved Preliminary Plat occur in association with in-the-field construction adjustments, such minor modifications may be approved at the discretion of the Administrator before the plat is recorded. Changes other than minor ones associated with in-the-field construction adjustments shall be subject to approval by the TRC.
4. **As-Builts Required:** Upon completion of required improvements, and before a Final Plat shall be granted (unless financially guaranteed), the applicant shall certify that the completed improvements are in accordance with the approved plans and designs, and shall submit actual “as built” plans for all public infrastructure after final construction is completed.
5. **Required Application Information:** Final Plat and a Stormwater Permit shall be required as prerequisite approvals.
6. **Determination of Conformity:** The Final Plat of a Major Subdivision shall be reviewed by the TRC for compliance with the requirements of this chapter and for conformity with the approved Preliminary Plat. Provided the application has been deemed complete, the TRC shall approve, deny, or approve with conditions the Final Plat within 65 working days of its submittal. If no action is taken by the TRC within this time period, the Final Plat shall be deemed approved.
7. **Public Notification:** None required.
8. **Appeals:** Appeals of the decisions of the TRC shall be heard by the Board of Zoning Appeals. Such an appeal must be made in writing within 30 days of the receipt of the decision by the property owner or the property owner’s agent.
9. **Effect of Approval:** The approval of a Final Plat does not constitute acceptance for maintenance or other purposes of improvements in rights-of-way, such as utility lines, street paving, drainage facilities or sidewalks. Such improvements, when located within the unincorporated areas of Lancaster County, may be accepted only by action of the County following inspection and approval. Land designated as public open space or a park on a plat shall be considered to be offered for dedication, but not accepted until County Council has by expressed action done so.
10. **Phasing:** Final plats for phased subdivisions shall be reviewed and recorded individually in accordance with the schedule presented by the applicant during the Preliminary Plat approval.
11. **Permit Validity:** Final plats for Major Subdivisions that have been granted approval must be recorded within 180 days following approval or the approval becomes invalid. No lots shall be sold prior to approval by the County and recording of the Final Plat for the subdivision.
12. **Permit Extension:** The TRC may grant a single extension of this time period of up to 180 days upon submittal by the applicant of sufficient justification for the extension.

9.2.11 STREET NAMES Reserved

9.2.12 VARIANCES

A. PURPOSE/LIMITATIONS

1. **Purpose:** The variance process administered by the Board of Zoning Appeals is intended to provide limited relief from the requirements of this ordinance in those cases where strict

application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.

2. **Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.
3. **Use Variances Not Permitted:** In no event shall the Board of Zoning Appeals grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question. Nor shall the Board grant a variance which would allow the establishment of a use set forth herein as requiring certain conditions or standards under conditions or standards less than those minimums.
4. **Authority Limited to this Ordinance/ Conflicts with other Laws Prohibited:** In no event shall the Board of Zoning Appeals grant a variance which would conflict with the International Building Code, as amended, or any other state code unless otherwise authorized by duly enacted applicable laws and regulations.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Procedure:** Every applicant for a variance is strongly encouraged to meet with the Planning Department in a pre-application conference prior to the submittal of a request for a variance. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Filing Procedure:** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.
4. **Required Application Information:** All information relevant to describing the applicant's request to the Board of Zoning Appeals.
5. **Public Notification:** Level 1, 2, and 3.
6. **Determination of Completeness:** Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Board of Zoning Appeals. The Administrator shall prepare a staff report regarding the submitted variance application.

C. FORMAL REVIEW

1. **Action by the Board of Zoning Appeals**
 - a. Upon receipt of the request for a variance from the Administrator, the Board of Zoning Appeals shall hold a quasi-judicial hearing on the request.
 - b. After conducting the hearing, the Board of Zoning Appeals may: deny the application; conduct an additional public hearing on the application; or grant the application. It shall take a majority vote of the Board to grant a variance.
 - c. A decision by the Board of Zoning Appeals shall be made within 30 days of the date of the hearing.
 - d. The Board of Zoning Appeals, as established by Lancaster County, shall hear and decide requests for variances from the requirements of the standards for the Flood Damage Prevention standards located in Chapter 8.

2. Standard of Review

- a. General Variance Requests:** The Board of Zoning Appeals shall not grant a variance unless and until it makes all of the following findings:
- i. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance;
 - ii. That if the applicant complies with the provisions of the ordinance, the property owner seeking the variance can secure no reasonable return from, or make no reasonable use of his property;
 - iii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district;
 - iv. That the variance will not materially diminish or impair established property values within the surrounding area;
 - v. That the special conditions and circumstances referenced in iii, above, result from the application of this ordinance and not from the actions of the applicant;
 - vi. That the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit;
 - vii. That the variance is the minimum necessary to afford relief; and
 - viii. That the public health, safety and general welfare have been assured and substantial justice has been done.
- b. Floodplain Variance Procedures:** Variances from the standards set forth in this ordinance for flood damage prevention may be granted according to the following provisions.
- i. **Floodways:** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to ensure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100 percent of the cost to perform the development.
 - ii. **Conditions:** Upon consideration of the factors listed above and the purposes of this ordinance, the BZA may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:
 - Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
 - Any applicant to whom a variance is granted shall be given written notice

specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk. Such notification shall be maintained with a record of all variance actions.

- The local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.
- Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Section III.E.5 of this ordinance.

iii. **Considerations:** In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and:

- The danger that material may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- The compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
- Agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

iv. **Historic Structures:** Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- v. **Functionally Dependent Uses:** Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exist, and the development is protected by methods that minimize flood damage and create no additional threat to public safety.
- vi. **Agricultural Structures:** Variances may be issued to wet floodproof an agricultural structure provided it is used solely for agricultural purposes. In order to minimize flood damages during the base flood and the threat to public health and safety, the structure must meet all of the conditions and considerations of Section ____, this section, and the following standards:
- Use of the structure must be limited to agricultural purposes as listed below:
 - Pole frame buildings with open or closed sides used exclusively for the storage of farm machinery and equipment;
 - Steel grain bins and steel frame corncribs;
 - General purpose barns for the temporary feeding of livestock that are open on at least one side;
 - For livestock confinement buildings, poultry houses, dairy operations, and similar livestock operations, variances may not be issued for structures that were substantially damaged. New construction or substantial improvement of such structures must meet the elevation requirements of Section ____ of this ordinance.
 - The agricultural structure must be built or rebuilt, in the case of an existing building that is substantially damaged, with flood-resistant materials for the exterior and interior building components and elements below the base flood elevation.
 - The agricultural structure must be adequately anchored to prevent flotation, collapse, or lateral movement. All of the structure's components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, hydrodynamic, and debris impact forces. Where flood velocities exceed 5 feet per second, fast-flowing floodwaters can exert considerable pressure on the building's enclosure walls or foundation walls.
 - The agricultural structure must meet the venting requirement of Section ____ of this ordinance.
 - Any mechanical, electrical, or other utility equipment must be located above the base flood elevation, plus any required freeboard, or be contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section ____ of this ordinance.
 - The agriculture structure that comply with the floodway encroachment provisions of Section ____ of this ordinance.
 - Major equipment, machinery, or other contents must be protected. Such protection may include protective watertight floodproofed areas within the building, the use of equipment hoists for readily elevating contents, permanently elevating contents on pedestals or shelves above the base flood elevation, or determining that property owners can safely remove contents without risks to lives and that the contents will be located to a specified site out of the floodplain.

- vii. **Findings:** Findings listed above shall be submitted to the BZA, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water, and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

D. APPEALS

An appeal from the decision of the Board of Zoning Appeals regarding a variance request may be made by an aggrieved party and shall be made to the Court of Common Pleas in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.

E. LEGAL STATUS PROVISIONS

1. Effect on Rights and Liabilities under the Existing Flood Damage Prevention

Ordinance: This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted March 23, 2011 and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Lancaster County enacted on March 23, 2011, as amended, which are not reenacted herein, are repealed.

2. **Effect upon Outstanding Building Permits:** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Building Official or authorized agents before the time of passage of this ordinance; provided, however, that when start of construction has not occurred under such outstanding permit within a period of 60 days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

9.2.13 SPECIAL EXCEPTIONS (SE)

Special exceptions are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special exceptions ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Exception Permit are noted in the Use Table – Section 2.5.3. Specific additional standards related to Special Exception Permit approval are located in Chapter 3.

A. APPLICATION PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Pre-Application Meeting:** Every applicant for a Special Exception Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.
3. **Required Application Information:** An application for a Special Exception Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Exception Permit shall contain, at a minimum, a Site Analysis, Preliminary Plat and Building Elevations for Design Review (may be waived by Administrator as appropriate). Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.

4. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Zoning Appeals.

B. REVIEW PROCESS

1. **Public Notification:** Level 1, 2, and 3.
2. **Neighborhood Meeting:** Optional.
3. **Public Hearing:** The Board of Zoning Appeals shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.
4. **Board of Zoning Appeals Decision:** Following the public hearing, the Board of Zoning Appeals may approve, deny, or approve with conditions the application for a Special Exception Permit within 35 days of the date of the public hearing.
5. **Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinance (no variances are permitted), the Board of Zoning Appeals must find the following:
 - a. That the proposed special exception conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
 - b. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
 - c. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
 - d. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;
 - e. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district; and
 - f. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare.
 - g. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.
6. **Additional Conditions:** The Board of Zoning Appeals may place conditions on the use as part of the approval to assure that appropriate mitigation measures are associated with the use. The conditions shall become part of the Special Exception Permit approval and shall be included in the final site plan application.
7. **Revocation of Special Use Permits:** If at any time after a Special Exception Permit has been issued for any special use, the Board of Zoning Appeals finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Special Exception Permit, the permit shall immediately be terminated and the operation of such a use discontinued. Any such "finding" shall be made in an open meeting of the Board in full compliance with the review process herein described, and the permit holder's right to due process shall be maintained. If a Special Exception Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

C. EFFECT OF DECISIONS

1. **Appeals:** An appeal from the decision of the Board of Zoning Appeals regarding a Special Exception Permit application may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition to the Court of Common Pleas shall be filed with the court no later than 30 days after the applicant receives the written copy of the decision of the Board of Zoning Appeals.
2. **Permit Validity:** Following the approval of a Special Exception Permit the applicant shall have 2 years to obtain a building permit or the Special Exception Permit shall become void. Such permit shall remain valid as long as a valid building permit exists for the project.
3. **Permit Extension:** The Board of Zoning Appeals may grant a single extension of this time period of up to 6 months upon submittal by the applicant of sufficient justification for the extension.

9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.
3. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be

separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

D. APPEALS

1. Any appeal from a decision of the Board of Zoning Appeals may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Zoning Appeals.
2. Any appeal from a decision relating to sedimentation and erosion control shall be made to the Sedimentation Control Commission. Any such appeal shall be filed no later than 15 days after the applicant receives a written copy of the decision of the Board of Zoning Appeals.

9.2.15 TEXT AMENDMENTS AND REZONINGS

The County Council may from time to time amend any part of the text of this ordinance or amend the Zoning Map of the County.

A. APPLICATION PROCEDURES

1. **Process Type:** Legislative.
2. **Applicants:** Map or text amendments may be submitted by any of the following:
 - The County Council.
 - The Planning Commission.
 - The Board of Zoning Appeals.
 - The Planning Department.
 - Any owner of property within the land use jurisdiction of the County.
3. **Pre-Application Procedure:** Before filing a petition of an amendment, an applicant (if an owner requesting a map amendment) shall meet with the Administrator to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures of the County.
4. **Content of Application:** A petition for an amendment to the County's official land development map or text shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.
5. **Determination of Completeness:** Staff shall review an application for amendment to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning Commission. The Administrator shall prepare a staff report and recommendation on the matter.

B. REVIEW BY PLANNING COMMISSION

1. **Public Notification (Prior to Planning Commission):** Levels 1 and 2, are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
2. **Neighborhood Meeting:** Optional.
3. **Consideration by Planning Commission:** The Planning Commission shall conduct a public hearing and receive public input on the proposed amendment and shall provide a written recommendation to the County Council regarding whether to approve or deny each

proposed amendment within 35 days of its first consideration on the matter. The recommendation shall address consistency with the Comprehensive Plan and other matters deemed appropriate by the Commission. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed amendment by the County Council.

C. CONSIDERATION BY COUNTY COUNCIL

1. **Public Notification (Prior to Planning Commission):** Level 1 and 2 are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to, map amendments (rezonings), amendments to zoning district boundaries, and the application of new overlay zones.
2. **Consideration by the County Council:** Following receipt of a recommendation or appeal of a proposed amendment, the County Council shall conduct a public hearing on the matter. Upon reviewing all of the pertinent information, the County Council may:
 - a. Adopt the proposed amendment.
 - b. Adopt the proposed amendment with modifications.
 - c. Reject the proposed amendment.
 - d. Refer the proposed amendment back to the Planning Commission for further consideration.
 - e. Refuse to take any further action.

9.2.16 CONDITIONAL USE

The County Council may from time to time approve Conditional Use permits.

A. APPLICATION PROCEDURES

1. **Process Type:** Legislative.
2. **Applicants:** Conditional Use permits may be submitted by any of the following:
 - Any owner of property within the land use jurisdiction of the County.
3. **Pre-Application Procedure:** Before filing a petition for a Conditional Use, an applicant shall meet with the Administrator to discuss the proposed Conditional Use request and to become more familiar with the applicable requirements and approval procedures of the County.
4. **Content of Application:** A petition for a Conditional Use shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.
5. **Determination of Completeness:** Staff shall review an application for a Conditional Use to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning Commission. The Administrator shall prepare a staff report and recommendation on the matter.

B. REVIEW BY PLANNING COMMISSION

1. **Public Notification (Prior to Planning Commission):** Levels 1 and 2 are required for all amendments to the UDO. Level 3 is required for Conditional Use that involve a specific parcel of land. Such actions include, but are not limited to Conditional Uses..
2. **Neighborhood Meeting:** Optional.
3. **Consideration by Planning Commission:** The Planning Commission shall conduct a public

hearing and receive public input on the proposed amendment and shall provide a written recommendation to the County Council regarding whether to approve or deny each proposed amendment within 35 days of its first consideration on the matter. The recommendation shall address consistency with Chapter 5 and the surrounding neighborhood and other matters deemed appropriate by the Commission. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed amendment by the County Council.

C. CONSIDERATION BY COUNTY COUNCIL

1. **Public Notification (Prior to Planning Commission):** Level 1 and 2 are required for all amendments to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to Conditional Use.
2. **Consideration by the County Council:** Following receipt of a recommendation or appeal of a proposed amendment, the County Council shall conduct a public hearing on the matter. Upon reviewing all of the pertinent information, the County Council may:
 - a. Adopt the proposed amendment.
 - b. Adopt the proposed amendment with modifications.
 - c. Reject the proposed amendment.
 - d. Refer the proposed amendment back to the Planning Commission for further consideration.
 - e. Refuse to take any further action.

D. WAITING PERIOD FOR SUBSEQUENT APPLICATIONS

1. When an application for an amendment has been approved or denied by the County Council, no application shall be considered on the same issue within the next 12 months after approval or denial.

9.2.17 DEVELOPMENT AGREEMENTS

A. APPLICABILITY

1. At the time a developer makes application for mixed-use zoning district, the developer shall submit to the clerk:
 - a. A letter stating that the developer is seeking mixed-use zoning district;
 - b. A proposed agreement containing, at a minimum, the information required by Section 9.2.17.C; and
 - c. A check as required by Section 9.2.17.F.
2. Upon receipt by the clerk, the clerk shall provide copies of the developer's letter and proposed agreement to each member of the council.
3. Council may, in its discretion:
 - a. Provide for the appointment of an ad hoc committee of the council, to review and make recommendations to the council on the content and disposition of the proposed agreement;
 - b. Request the review by and comment of any county agency, department, board or commission and such agency, department, board or commission shall, upon request of

the council, make appropriate resources and personnel available to the council to facilitate the council's review and consideration of the proposed agreement;

- c. Make arrangements as may be necessary or proper to enter into agreements, including negotiating and drafting of agreements; and
 - d. Engage such consultants and professional service providers as may be needed including, but not limited to, engineering, financial, legal or other special services.
4. The clerk shall forward a copy of the proposed agreement to the planning commission. The planning commission shall review the proposed agreement and make recommendations to the council not later than the time the planning commission makes its recommendations to the council on the proposed planned development district.
 5. At least two public hearings on the proposed agreement shall be conducted. One of the two required public hearings shall be held by the planning commission and the other shall be held by council. Not less than 15 days' notice of the time and place of each hearing shall be published in at least one newspaper of general circulation in the county. The notices published for the public hearings must include the information required to be published by Code Section 6-31-50(B).
 6. No agreement may be entered into by the county unless the agreement has been approved by council through the adoption of an ordinance. Any agreement approved by council must contain the information required by Section 9.2.17.C.

B. FILING PROCEDURES

1. **Process Type:** Legislative.
2. **Public Notification:** Level 1 and 2.

C. REQUIRED AGREEMENT INFORMATION

The proposed agreement filed by the developer, as provided in Section 9.2.17.A, must include:

1. A legal description of the property subject to the agreement and the names of the property's legal and equitable owners;
2. The duration of the agreement which must comply with Code Section 6-31-40;
3. A representation by the developer of the number of acres of highland contained in the property subject to the agreement;
4. The then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property;
5. The development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height;
6. A description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the county shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer;
7. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement;

8. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions;
9. A finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the county's comprehensive plan and land development regulations;
10. A description, where appropriate, of any provisions for the preservation and restoration of historic structures;
11. A development schedule including commencement dates and interim completion dates at no greater than five year intervals;
12. If more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement;
13. A listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both;
14. A provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement;
15. A provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply;
16. A provision that:
 - a. The agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest;
 - b. If the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided, that, for purposes of this subitem, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any other significant deviation from the development as contained in the agreement;
 - c. If the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates; and
 - d. The agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement;
17. A provision for periodic review, consistent with the provisions of Section 9.2.17.G;
18. A provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9.2.17.E;
19. A provision that the developer, within 14 days after the county enters into the agreement, will record the agreement with the county clerk of court;

20. A provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement; and
21. A provision addressing the conditions and procedures by which the agreement may be assigned.

D. OPTIONAL AGREEMENT INFORMATION

The agreement approved by the council must include the information listed in Section 9.2.17.C and, in addition, may include:

1. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the council for the public health, safety, or welfare of the county's citizens;
2. Requirements that the entire development or any phase of it be commenced or completed within a specified period of time;
3. Defined performance standards to be met by the developer;
4. Identification of any laws or land development regulations anticipated to be adopted by the council subsequent to the execution of the agreement and made applicable to the property subject to the agreement;
5. Any other matter not inconsistent with the Act not prohibited by law.

E. BREACH OF AGREEMENT

1. If, as a result of the periodic review provided for in Section 9.2.17.G, the zoning administrator finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the zoning administrator shall serve notice in writing, within 30 days after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer 30 days to respond with a corrective action plan to cure the material breach. The zoning administrator may approve a corrective action plan which provides for a cure of the material breach in one year or less. Corrective action plans providing for a cure of the material breach in excess of one year must be reviewed and approved by the council. The zoning administrator and council may establish a time for the cure of the material breach different from that proposed by the developer.
2. If the developer fails to respond to the zoning administrator's notice within 30 days or cure the material breach within the time approved by the zoning administrator or council, the council unilaterally may terminate or modify the agreement, provided, that the council has first given the developer the opportunity:
 - a. To rebut the finding and determination; or
 - b. To consent to amend the agreement to meet the concerns of the council with respect to the findings and determinations.
3. The failure of a developer to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the agreement, but must be judged based on the totality of the circumstances.

F. COST OF CONSIDERATION

The developer must pay a fee, to defray the cost of consideration of the proposed agreement by the council, and the amount of the fee shall be determined in the following manner: \$25.00 per acre for each acre of highland proposed to be included in the agreement with the total fee not to exceed twenty thousand dollars. The developer shall pay the fee by check made payable to Lancaster County and the check shall be included with the material submitted to the clerk as provided in Section 9.2.17.A. The fee shall be deposited in a special account and used at the

direction of the council only for the purpose of defraying expenses incurred by the county in the review and consideration of the proposed agreement. Any unused fee shall be returned to the developer within six months of the county's disposition of the proposed agreement.

G. REVIEW BY ADMINISTRATOR

At least every 12 months, the zoning administrator must review compliance with the agreement by the developer. At the time of review the developer must demonstrate good faith compliance with the terms of the agreement.

9.3 NONCONFORMITIES

9.3.1 PURPOSE AND APPLICABILITY

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this ordinance (or any subsequent amendment) that do not conform to this ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall also be regulated by the provisions of this section. The provisions of this chapter are intended to limit substantial investment in nonconformities and to bring about their eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the areas in which they are located. The thresholds established in this chapter at which nonconforming uses or structures must be brought into compliance shall apply to the cumulative expansion, reconstruction or other modification of nonconforming uses or structures from the condition in which they existed on the date of adoption of this ordinance.

9.3.2 GENERAL PROVISIONS

A. APPEALS AND MODIFICATIONS

- 1. Board of Zoning Appeals:** The Board of Zoning Appeals shall hear and determine appeals from administrative decisions of the zoning administrator, grant or deny appeals from administrative decisions of the zoning administrator, grant or deny applications for variances, and grant or deny applications for special exception.
- 2. Criteria for Approval:** The Board of Zoning Appeals may only grant a change for a nonconforming use or replacement of a nonconforming structure which has been destroyed after having first held a public hearing and having determined that:
 - a** Said change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation; and,
 - b** The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and,
 - c** The decision to grant the change will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.
 - d. Conditions of Approval:** The Board of Zoning Appeals, in granting such changes, may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms upon which the change was granted, shall be deemed a violation of this ordinance and shall be subject to enforcement provisions Violations and Penalties.

B. UNSAFE STRUCTURES

- 1. Deficiencies Due to Lack of Maintenance:** Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature that is declared unsafe by the building inspector because of lack of repairs and

maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this ordinance.

2. **Other Deficiencies:** Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming structure that is declared unsafe by the building inspector, but not because of lack of repairs and maintenance, may be repaired and restored subject "Schedule of Repairs" shall be submitted to the Administrator within 30 days of notice.

C. DISCONTINUANCE

A nonconforming use of a building or premises which has been discontinued shall not thereafter be returned to such nonconforming use except in accordance with the provisions of this section.

1. **Determination of Discontinuance:** A nonconforming use shall be presumed discontinued when any of the following has occurred:
 - a. The owner has, in writing or by public statement, indicated intent to abandon the use.
 - b. A conforming use has replaced the preceding nonconforming use. All of the buildings or structures on the subject property housing the nonconforming use have been removed.
 - c. The owner has physically changed the building or structure, or its permanent equipment, in such a way as to clearly indicate a change in use or activity to something other than the nonconforming use.
 - d. Any basic utilities including water, electric and sewer service are disconnected by the utility provider.
 - e. The property, structure or use has been vacant or inactive for a continuous period of more than 180 days.
 - i. This may be implied from acts or the failure to act, including, but not limited to: the removal of and failure to replace the characteristic equipment and furnishings; lack of utility consumption necessary to maintain the use at an operable level; documented vacancy; or other circumstances.
 - ii. If operations have ceased for more than 180 consecutive days, the presence of characteristic equipment and furnishings is not, in and of itself, sufficient to establish the continuity/operation of the use.
 - iii. The mere vacancy of a structure for a period exceeding 180 consecutive days that was initially constructed as a single-family dwelling and whose most recent use was as a single-family dwelling shall not constitute a discontinuance of the use.

9.3.3 NONCONFORMING PLANS

A. APPROVED SITE SPECIFIC PLANS

1. **Previously-Approved Plans Grandfathered:** Any site specific plan (including but not limited to master plans, preliminary plats, final plats, special use permit plans) for the development of property and/or construction of a building which has been submitted as part of a complete application submittal to Lancaster County for development and/or construction, but does not conform to this ordinance and has not expired, may be developed and/or constructed in accordance with the ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this ordinance. Any conditions imposed as part of a previously-approved Special Use Permit or Conditional Use

Permit shall continue as approved. Approved Subdivision Preliminary Plats, with or without multi-year phasing schemes, shall continue to regulate the development as approved as long as sufficient progress is made according to the terms of the ordinance under which the plans were approved.

2. **May Choose New Ordinance:** A property owner with an approved site specific plan, as identified above, may elect to develop such property and/or construct such building in accordance with the terms and provisions of this ordinance in lieu of the rules and regulations upon which the plan was approved. The Administrator shall notify the property owner in writing of any additional required procedures or modifications which may be necessary in order for the plan to conform to the ordinance.
3. **Amendments or Modifications of Previously-Approved Plans:** Any amendment or modification to an approved site specific plan, which would have required approval pursuant to the ordinance, the rule or regulation by which the plan was originally approved, shall be reviewed and considered in accordance with the terms and provisions of this ordinance as if it were an amendment or modification to a plan originally approved under this ordinance.
4. **Maximum Build-Out Period:** If construction is not begun under such an outstanding permit within a period of one year subsequent to the passage of this ordinance, or where it has not been completed within 2 years subsequent to passage of this ordinance, any further construction or use shall be in conformity with the provisions of this ordinance.

B. VESTED RIGHTS

This section does not prohibit the exercise of any vested right established by common law ordinance or statute.

9.3.4 NONCONFORMING LOTS

A. DEFINITION AND APPLICABILITY

A nonconforming lot is a lot that was lawfully created prior to the effective date of this ordinance, but that does not meet the dimensional requirements of Chapter 2 for the zoning district in which it is located. A nonconforming vacant lot of record is one that was recorded by plat or description in the Office of the Register of Deeds of Lancaster County prior to the adoption of this chapter or prior to the time that the lot was brought into the County's jurisdiction.

B. STANDARDS

1. **Lot May Be Developed:** A nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the district in which it is located, provided that any use, development, required feature (parking, buffers, etc.), and/or structure meets all applicable yard and setback requirements for the district in which the lot is located. A variance shall not be required for a substandard lot width or lot size for such lots of record.
2. **Lots to Be Combined if Possible**
 - a. A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot under the same ownership on or after the effective date of these regulations in order to create a single conforming or substantially conforming lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street. All other minimum requirements for the particular land development district and proposed use must be met or a variance obtained from these requirements through an action of the Board of Zoning Appeals. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.).

- b.** For lots that are nonconforming because they do not meet the minimum required lot width or square footage requirements, the above combination or recombination of lots shall not be required if the lot is no less than 90 percent of the minimum requirements.
 - c.** Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.
- 3. Exceptions for Previously Approved Plats:** A nonconforming lot may be developed if, at the effective date of this ordinance, the lot is located in (i) a subdivision that had received preliminary plat approval; or (ii) a subdivision in which had received final plat approval.
- 4. Existing Structures on Non-Conforming Lots:** Any structure on a nonconforming occupied lot may be occupied, without expansion, by a conforming use or may be improved or expanded in accordance with the standards listed in this section. Structural alterations or remodeling of structures on nonconforming lots required by an authorized public official shall be permitted. Routine maintenance shall also be permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.
- 5. Expansion of Structures:** Any improvement or expansion of any structure on a nonconforming occupied lot must comply with all other minimum requirements of this ordinance or a variance must be obtained from these requirements through an action of the Board of Zoning Appeals. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.).

9.3.5 NONCONFORMING USES & STRUCTURES

A. DEFINITION AND APPLICABILITY

- 1. Nonconforming Use:** A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this ordinance, or a subsequent amendment thereto, but does not conform to the use regulations of Chapter 2 for the zoning district in which it is located. This definition includes open uses of land (e.g., storage yards and golf driving ranges) as well as the structures that contain nonconforming uses. The nonconformity may result from the adoption of this ordinance or any subsequent amendment.
- 2. Nonconforming Structure:** A nonconforming structure is a physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this ordinance, but does not conform to dimensional, design, locational, or other requirements of this ordinance. This also includes nonconforming features such as buffers, landscaping, mechanical and utility structures, and parking. The nonconformity may result from adoption of this ordinance or any subsequent amendment.

B. STANDARDS FOR NONCONFORMING USES

- 1. Continuation Permitted:** Any legally-established nonconforming use may be continued subject to the standards listed in this chapter. Expansions of such uses are not permitted. Once a nonconforming use is discontinued it may not later be reestablished or converted to any other nonconforming use.
- 2. Expansion of Use:** Except as otherwise stated below, no building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use. However, routine maintenance of any structure containing a nonconforming use is permitted.

3. Damage or Destruction

- a When a building or structure devoted to a nonconforming use is damaged to the extent of more than 60 percent of the property's "total improvements full market value" as shown on the County tax records at the time of such damage, such a building, if restored, shall thereafter be devoted to conforming uses.
- b If a building or structure devoted to a nonconforming use is damaged to a lesser extent than designated above, it may be repaired and continued in accordance with this ordinance provided that any such repair does not increase the degree of any nonconformance and a building permit for the reconstruction or repair work is obtained within 180 days of the date of such damage.
- c The Administrator is authorized to grant in writing one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and a justifiable cause must be demonstrated

C. STANDARDS FOR NONCONFORMING STRUCTURES

- 1. **Continuation Permitted:** Any legally-established nonconforming structure may be continued subject to the standards listed in this section. However, once a nonconforming structure is made conforming, it may not later be altered, modified or expanded in violation of this ordinance.
- 2. **Expansions of Structure:** A nonconforming principal building may be enlarged, extended, or structurally altered only if such enlargement, extension, or structural alteration complies with all of the following requirements:
 - a The use of the building must be a conforming use or a single-family residential use;
 - b The enlargement, extension, or structural alteration may extend or project no further than the legally-established building line(s) of the subject building;
 - c The enlargement, extension, or structural alteration may not encroach into required building perimeter landscaping areas, parking lot landscaping areas or any required buffer yards.
 - d The enlargement, extension, or structural alteration shall create no additional nonconforming features;
 - e If the subject building lies in a historic district, the enlargement, extension, or structural alteration shall comply with all applicable requirements of that district; and
 - f If the subject building, and/or its proposed enlargement, extension, or structural alteration, lies in a special flood hazard area, the enlargement, extension, or structural alteration shall comply with all applicable requirements of this ordinance.
- 3. ~~D.~~ **Damage or Destruction**
 - a When a nonconforming structure is damaged to the extent of more than 75 percent of the property's "total improvements full market value" as shown on the County tax records at the time of such damage, such a structure, if restored, shall thereafter conform to all applicable development standards contained in this ordinance.
 - b If a nonconforming structure is damaged to a lesser extent than designated above, it may be reconstructed or repaired having the same nonconforming feature(s) as before the damage, or having those same features being more conforming (but still nonconforming) than before the damage, provided that a building permit for the reconstruction or repair work is obtained within ~~180 days~~ 1 year of the date of such damage, or at the discretion of the Administrator.

D. ~~E.~~ STANDARDS FOR NONCONFORMING ACCESSORY USES AND STRUCTURES

Must Terminate When Principal Use/Structure is Terminated: No nonconforming accessory use shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory structure shall become or replace any terminated principal nonconforming structure.

9.3.6 NONCONFORMING MANUFACTURED HOMES AND MOBILE HOME PARKS

A. NONCONFORMING MANUFACTURED HOUSING ON INDIVIDUAL LOTS

1. Replacement Home

- a. A nonconforming manufactured home on an individual lot outside of a manufactured home park may only be replaced with a unit that does not create more nonconformity.
- b. Manufactured homes may only be replaced with equivalently sized units or larger.
- c. Replacement units shall meet all applicable standards of Chapter 8, Flood Damage Prevention.

- 2. **Expansions Prohibited:** A nonconforming manufactured home on an individual lot may not be enlarged or altered externally in any way except where such alteration is required by law or an order from the Building Inspector, Fire Marshal, or the Administrator to ensure the safety of the structure, or where such alteration increases the degree of conformance of the home.

- 3. **Routine Maintenance Permitted:** Routine maintenance of such manufactured housing is permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.

B. NONCONFORMING MANUFACTURED HOME PARKS AND HOUSING WITHIN PARKS

Continuation Permitted: Manufactured home parks which are nonconforming, either as to use or development standards, may continue to operate provided that replacement of manufactured housing units are as follows:

- Only existing spaces as of the effective date of this ordinance may be used. No additional spaces may be created or occupied.
- Replacement units may not increase the degree of nonconformity of setbacks from streets, property lines, structures, or watercourses.
- Replacement units shall meet all applicable standards of Chapter 8, Flood Damage Prevention.

9.3.7 NONCONFORMING SIGNS

A. STANDARDS

- 1. **Determination of Nonconformity:** Existing signs which do not conform to the specific provisions of the ordinance may be eligible for the designation "legal nonconforming" provided that:
 - a. Such signs are properly maintained and do not in any way endanger the public.
 - b. The sign was installed in conformance with a valid permit or variance, or complied with all applicable laws on the date of adoption of Chapter 7 of this ordinance.

2. **Loss of Legal Nonconforming Status:** A legal nonconforming sign may lose this designation if:
 - a. The sign is relocated or replaced.
 - b. The structure or size of the sign is altered in any way. This does not refer to change of copy or normal maintenance.
 - c. The sign is an independent freestanding structure that has been unused for a period of 2 years.
3. **Maintenance and Repair of Nonconforming Signs:** The legal nonconforming sign is subject to all requirements of this ordinance regarding safety, maintenance, and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, or requires maintenance and/or repair to the extent that a Building, Electrical, Zoning or other permit is required to legally perform such maintenance and/or repair, it must be brought into conformance with this ordinance or removed.
4. **Signs Associated with Nonconforming Uses:** New signs related to legally established nonconforming uses may be erected provided they comply with the sign requirements of the district in which the use is located.

9.4 VIOLATIONS AND PENALTIES

9.4.1 NOTICE OF VIOLATIONS

A. ADMINISTRATOR AUTHORITY

1. Unless specifically set forth otherwise in this ordinance, the Administrator is hereby authorized to enforce the provisions of this ordinance.
2. The Administrator shall have the power to conduct such investigation as he/she may reasonably deem necessary to carry out his/her duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property or premises, public or private, to perform any duty imposed upon them by this ordinance.
3. The Administrator shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to violations of this ordinance.

B. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a complaint. Any complaint stating fully the cause and basis of the complaint shall be filed with the Administrator who shall properly record such complaint, investigate in a timely manner, and take appropriate action as provided by this ordinance.

C. NOTICE OF VIOLATION; OPPORTUNITY TO CURE

1. In any case where the Administrator finds that any provision of this ordinance is being violated, he/she shall deliver a written notice to the person responsible for such violation(s) and to the owner of record of the property on which the violation occurs. This notice shall:
 - a. Indicate the nature of the violation(s),
 - b. Order the action necessary to correct the violation(s), and
 - c. State the opportunity for an administrative hearing and subsequent appeal and

- d. State what action the Administrator intends to take if the violation is not corrected.
- 2. Such notice of violation shall be served by personal delivery or certified or registered mail, return receipt requested. The notice shall be mailed to the property address indicated on the County's official tax notice address of record.
- 3. The notice of violation shall include an opportunity to cure or correct the violation within a period of time, not less than 5 days or more than 30 days, as determined by the Administrator, without penalty.
- 4. Additional written notices may be sent at the Administrator's discretion.
- 5. The violator may request a hearing with the Administrator within the term prescribed for correction of the violation, during which the violator may propose a schedule for correction of the violation(s).

D. NOTICE OF VIOLATION; OPPORTUNITY TO APPEAL

- 1. The Administrator's order to correct a violation may be appealed to the Board of Zoning Appeals, provided that the violator must have requested a hearing with the Administrator prior to filing an appeal.
- 2. A Level 1 and 2.

E. SUMMARY REMOVAL OF VIOLATIONS

- 1. The Administrator shall have the authority to summarily remove, abate, or remedy a sign or sign structure which the building inspector has determined to be dangerous or prejudicial to the public health or safety, or any signs or sign structures prohibited.
- 2. In cases where temporary uses were established without the proper permit(s), and in any cases where delay would pose a danger to the public health safety or welfare, the violation(s) can be ordered removed/ceased immediately. The Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies.
- 3. The expense of these actions shall be paid by the violator, or if the violator cannot be ascertained, by the property owner.

9.4.2 SPECIFIC TYPES OF VIOLATIONS

A. FLOOD DAMAGE PREVENTION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent Lancaster County from taking such other lawful action as is necessary to prevent or remedy any violation.

B. STORMWATER

- 1. A person shall be in violation of this Section when he or she:
 - a. Commences or conducts an activity described in this Section without prior approval from the appropriate agencies;
 - b. Deviates from an approved stormwater permit or drainage plan;
 - c. Fails to maintain drainage facilities under that person's ownership or control; or

- d. Changes the drainage patterns along the property line or stormwater conveyance system and as a result water has flooded or is reasonably likely to flood land or a building other than that of the property owner.
- 2. Any activity undertaken in violation of this Section shall be halted immediately after written notice by the County is issued. The violator shall be required to restore any altered land to its undisturbed condition or restore it to such condition in which it would not shed stormwater in violation of the control requirements for stormwater runoff. In the event that restoration is not undertaken within 30 days, the County may perform restoration on the property. The cost of the restoration shall become a lien upon the real estate where such restoration occurred and shall be collectable in the same manner as the municipal taxes.

C. NOTICE OF VIOLATION

If land has been altered in violation of this section or drainage facilities are not maintained as required by this Section, the record owner of the property shall be notified in writing and the notice shall demand that such owner cause the condition to be remedied. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on County tax records, or such address as has been provided by the person to the County. Notice shall also be posted upon the property on which the violation exists. Notice may be served by hand delivery to the owner of record of the property in lieu of mailing.

D. RECORDED VIOLATION

The County may record a notice of violation on the title to the property at the Lancaster County recorder of deeds office.

E. APPEALS

Within ten days after the date of the notice, the owner or the designated agent of the owner may file an appeal to show that the violation alleged in the notice does not exist or has not occurred. The appeal shall be in writing and must be provided to the environmental engineering division of public works.

F. CONDITION MAY BE REMEDIED BY COUNTY

If no appeal has been made, the violation has not been remedied within 30 days, or remediation has not commenced within a timeline acceptable to the County, the County may elect to cause the condition to be remedied. The costs of remedying the condition as well as such administrative and other costs as are necessary shall be charged against the property as a lien upon the real estate where such restoration occurred and shall be collectable in the same manner as the municipal taxes.

G. PREPARATION OF LIEN

After causing the condition to be remedied, the County shall determine the cost involved in remedying the condition, including all administrative and other costs as are necessary to correct the violation, and shall determine the proportionate costs that each property should bear.

H. NO DUTY ON THE COUNTY

This section creates no affirmative duty on the County to inspect, and it imposes no liability of any kind whatsoever on the County for omissions in inspecting. The landowner shall hold the County harmless from any liability in the event the stormwater management system fails to operate properly due to the landowner's failure to abide by the terms of this Section.

9.4.3 STOP WORK ORDER

Whenever the administrator or designee finds a violation of this Section or of any permit or order issued pursuant thereto, within their respective jurisdiction, the administrator or designee may issue a stop work order on all development activity on the subject property or on the portion of the activity

in direct violation of the Section. In every case, the administrator or designee shall issue an order that:

- Describes the violation;
- Specifies the time period for remediation; and
- Requires compliance with this Section prior to completion of the activity in violation.

9.4.4 FINE

Failure to comply with any of the requirements of this Section, including conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation. Any violation thereof shall be subject to a fine of not more than \$1,000.00, or such additional maximum amount as may become authorized by state law, for each violation. Each day the violation continues shall be considered a separate offense.

9.4.5 CIVIL PENALTY

Any person who violates any provision of this Section shall be subject to a civil penalty of not more than \$1,000.00, or such additional maximum amount as may become authorized by state law, provided the owner or other person deemed to be in violation has been notified of a violation. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on the County tax records, or such other address as has been provided by the person to the County.

9.4.6 OTHER LEGAL ACTION

The County may also take any other legal action necessary to prevent or remedy any violation, including appropriate equitable or injunctive relief and, if applicable, an assessment to the violator for the removal, correction, or termination of any adverse effects upon any property resulting from any unauthorized activity for which legal action under this section may have been brought.

A. EROSION CONTROL VIOLATIONS

- 1. Notice of Violation:** Any person who violates any of the provisions, or rule or order adopted or issued pursuant to that section, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty and shall be served a notice of violation.
- 2. Civil Penalties**
 - a.** The maximum civil penalty amount that the County may assess per violation is \$5,000. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.
 - b.** Any person who fails to submit an erosion control plan for approval in accordance with this ordinance shall be subject to a single, noncontinuing civil penalty of not more than \$1,000.
 - c.** Anyone who violates a stop work order regarding grading and filling control shall be subject to a civil penalty of not more than \$1,500.
 - d.** The Administrator shall determine the amount of the civil penalty for other erosion control violations based upon the following factors:
 - i.** The degree and extent of harm caused by the violation,
 - ii.** The cost of rectifying the damage,
 - iii.** The amount of money the violator saved by noncompliance,
 - iv.** Whether the violation was committed willfully, and
 - v.** The prior record of the violator in complying or failing to comply with this section.
 - e.** The Administrator shall provide notice of the civil penalty amount and basis for

assessment to the person assessed. The notice of assessment shall be served by the Administrator ~~any means authorized under _____~~, and shall direct the violator to either pay the assessment or contest the assessment, within 30 business days after receipt of the notice of assessment, by filing a petition for contested case with the Administrator in the Office of Administrative Hearing in accordance with _____.

- f** The decision of the Administrative Law Judge may be appealed to the Court of Common Pleas of the county where the violation occurred.
- g** If payment is not received within 30 days after it is due, the County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Court of Common Pleas of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within 3 years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review, if any, of the assessment.
- h** Civil penalties collected pursuant to this section shall be credited to the Civil Penalty and Forfeiture Fund.

3. Criminal Penalties

Any person who knowingly or willfully violates any provision of this section, or rule or order adopted or issued pursuant to this section, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor.

4. Injunctive Relief

- a** Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the County or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Court of Common Pleas of the county in which the violation is occurring or is threatened.
- b** Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this section.

5. Restoration After Non-Compliance

The County may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section.

9.4.7 FLOODPLAIN VIOLATIONS

NATIONAL FLOOD INSURANCE ACT

The administrator or designee shall inform the owner that any such violation is considered a willful act to increase flood damages and, therefore, may cause FEMA to initiate a Section 1316 of the National Flood Insurance Act of 1968 action.

EXCLUSIVITY

The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state, or local law and is within the discretion of the authorized enforcement agency to seek cumulative remedies.

DISCLAIMER OF LIABILITY

It is recognized that although the degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, on occasions greater floods can and will occur, and flood heights may be increased by manmade or natural causes. These provisions do not imply that land outside the floodplain areas or that uses permitted within such areas will be free from flooding or flood damages. These provisions shall not create liability on the part of the Lancaster County nor any officer or employee thereof, for any claims, damages or liabilities that result from reliance on this Section or any administrative decision lawfully made hereunder.

SEPARABILITY

The provisions of this Section shall be deemed separable and the invalidity of any portion of this Section shall not affect the validity of the remainder.

ABROGATION AND GREATER RESTRICTIONS

This Section is not intended to repeal, abrogate or impair any existing deed or plat restrictions. Where this Section and other ordinance deed or plat restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Section is intended to repeal the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal the resolution which the Lancaster County passed in order to establish initial eligibility for the program.

- A. Violations to be Corrected:** When the Floodplain Administrator finds violations of this ordinance or any other applicable state and local laws it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to their property.
- B. Actions in the Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - 1. That the building or property is in violation of the flood damage prevention provisions of this ordinance;
 - 2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard, in person or by counsel, and to present arguments and evidence pertaining to the matter; and
 - 3. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- C. Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation

of the flood damage prevention ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time, said period to be not less than 60 days nor more than one year. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

- D. Appeal:** Any owner who has received an order to take corrective action may appeal the order to the Board of Zoning Appeals by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Zoning Appeals shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Zoning Appeals following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

9.4.8 PENALTIES FOR VIOLATIONS AND ENFORCEMENT MECHANISMS

Unless otherwise specified for specific types of violations, the following procedures, penalties and enforcement mechanisms for violations of this ordinance shall apply.

A. LIABILITIES FOR VIOLATIONS

Any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure or develops, grades or otherwise alters property in violation of this ordinance, and any person who uses any building, structure, sign or sign structure or land in violation of this ordinance shall be subject to civil and/or criminal penalties.

B. CIVIL PENALTIES

1. Civil Citations Following a Notice of Violation

- a** Following the delivery of a notice of violation if the alleged violator or property owner does not correct the violation within the time period determined by the Administrator, a citation subject to the following schedule of civil penalties shall be issued.

Notice/Citation	Penalty
Notice of Violation	No penalty if the violation is corrected within the time period determined by the Administrator as identified in the written notice.
Citation (for each uncorrected offense)	\$500.00; per day (as defined as the 24-hour period after which the notice has been delivered) that the violation continues to exist.

- b** If the Administrator notifies a party of a violation, and that violation is remedied but subsequently reestablished (committed by the same violator at the same location and being of the same nature as the original violation) within a period of 12 months, the violator shall incur the fines prescribed above without the need of a notice of violation.

- 2. Violation Assumed to be Continued until a Request for Compliance Inspection Is Made:** It is the responsibility of the party in violation to submit a request for an inspection for compliance to the Administrator upon correction of the violation. The violation will assume to be continued, and penalties assessed according to the schedule above, until an inspection is requested and the property is found to be in compliance.

- 3. Recovery of Civil Penalties:** The County may recover penalties in a civil action in the nature of a debt if the offender does not pay the penalty within 3 regular business days (excluding

weekends and holidays) after being cited for a violation.

4. **Limitation on Appeal of Civil Penalties:** These civil penalties may not be appealed to the Board of Zoning Appeals if the violator received a notice of violation and did not attend the hearing with the Administrator.

C. CRIMINAL PENALTIES

Any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount consistent with the General Statutes.

D. INJUNCTIVE OR OTHER RELIEF

1. In addition to, or in lieu of, the other remedies set forth in this chapter, the Administrator, in the event of a violation of this ordinance, may request that the County Attorney institute, in a court of competent jurisdiction, an injunctive action, mandamus action, or other appropriate proceeding to prevent the completion or occupation of such building or structure, or use of land.
2. Upon determining that an alleged violation is occurring or is threatened, a court hearing an appeal for relief shall enter such orders and/or judgments as are necessary to abate or prevent the violation.
3. The institution of an action for injunctive or other relief under this sub-section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed by this chapter for violations of this ordinance.

E. EQUITABLE REMEDY

In addition to the civil penalties set out above, any provision of this ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The Administrator may apply to a judicial court of law for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this ordinance.

F. ORDER OF ABATEMENT

In addition to an injunction, the Administrator may apply for, and the court may enter into, an order of abatement as part of the judgment in the case. An order of abatement may direct any or all of the following actions:

1. Buildings, foundations, or other structures on the property be closed, demolished, or removed;
2. Fixtures, furniture, or other moveable personal property be moved or removed entirely;
3. Improvements alterations, modifications or repairs be made; or
4. Any other action be taken that is necessary to bring the property into compliance with this ordinance.

G. EXECUTION OF COURT DECISIONS

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order, any attorney's fees and court costs incurred by the County, any unpaid fines due to the County, and any other reasonable administrative costs as necessary. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the

Clerk of the Court of Common Pleas in an amount approved by the judge before whom the matter was heard and shall be conditioned for the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

H. REVOCATION OF PERMITS

In the event of a violation of any provision of this UDO, the Administrator may stop any development of, use of, or activity on property by revoking the applicable permit.

1. Grounds for Revocation: Permits may be revoked when:

- a** False statements or misrepresentations were made in securing the permit;
- b** Work is being or has been done in substantial departure from the approved application or plan;
- c** There has been a failure to comply with the requirements of this ordinance or any additional requirements lawfully imposed by the permit issuing authority, including but not limited to specific conditions of approval; or
- d** The permit was been mistakenly issued in violation of this ordinance.

2. Written Notice and Hearing Required: Before a development-related permit (e.g. Building Certificate of Occupancy) may be revoked, the Administrator shall give the permit recipient notice of intent to revoke the permit, inform the recipient of the reasons for the revocation and hold a hearing at a specified time and place as set forth in the notice of intent to revoke, at which time the recipient, if present, shall be given opportunity to be heard. If, after the hearing, the permit is revoked by the office of the Administrator for reasonable cause, the Administrator shall provide to the recipient a written statement of the decision to revoke the permit and the reasons therefore.

3. Appeals of Revocation: The recipient may appeal the decision of the Administrator to the Board of Zoning Appeals.

4. Continuation of Use Not Allowed Following Revocation: No person may continue to make use of land or buildings in the manner authorized by any development-related permit on or after the date such permit has been revoked in accordance with this section. Such use shall constitute a violation and subject the responsible party to the penalties.

5. Resubmittal: Any resubmittal of a request for permit upon the same property shall meet all the provisions of the ordinance as adopted at the time of the submittal, and shall go through the full submittal process for the appropriate permit type.