
SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

TATAMY BOROUGH

NORTHAMPTON COUNTY, PENNSYLVANIA

Adopted by the Tatamy Borough Council on
February 3, 1992.

DEVELOPED UNDER THE DIRECTION OF:

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AND

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ARTICLE I

GENERAL PROVISIONS

101. TITLE An Ordinance providing for the regulation and control of the subdivision of lots and the development of land; the approval of plans, plots, or replots of land laid out in building lots; standards for the design of streets, lots, easements, blocks and other improvements; certain minimum improvements and construction standards on all streets and required dedications; the administration of this Ordinance by the Tatamy Borough Planning Commission and the Tatamy Borough Council; and penalties for the violation of this Ordinance.
102. SHORT TITLE. This Ordinance shall be known and may be cited as The Tatamy Borough Subdivision and Land Development Ordinance.
103. PURPOSE The purpose of these regulations is to create conditions favorable to the health, safety, morals, and general welfare of the citizens by: Assisting in the orderly and efficient integration of subdivisions; Ensuring conformance of subdivision plans with the public improvements plans of the Borough; Ensuring sites suitable for building purposes and human habitation; Facilitating the efficient movement of traffic and avoiding traffic hazards and congestion; Securing equitable handling of all subdivision plans by providing uniform procedures and standards; Improving land records by establishing standards for surveys and plans; Safeguarding the interests of the public, the homeowner, the subdivider and all municipalities; Preserving natural and historic features; and Carrying out the goals and objectives of the Comprehensive Plan.
104. APPLICABILITY
- A. No subdivision or land development of any lot, tract, or parcel of land shall be made, and no street, sanitary sewer, water main or other improvement required in connection with a proposed subdivision or land development shall be laid out, constructed, opened, or dedicated for use by the public or the occupants of the proposed subdivision or land development, except in accordance with this Ordinance.
 - B. A lot or parcel that was not a legal lot of record prior to adoption of this Ordinance shall not be created, sold or transferred, and no land development shall occur upon a lot unless and until: a) the subdivision of the lot and/or approval of the land development, as applicable, has been granted Final Plan approval and recorded and b: either of the following occurs:
 - 1. the Borough has been assured by means of a Development Agreement and guarantees acceptable to the Borough Council that the required improvements will subsequently be installed or
 - 2. the required improvements in connection therewith have been entirely completed.

- C. Landowner. No subdivision or land development shall be submitted to the Borough for review except by the landowner of such land or his/her specifically authorized agent (see definition of "landowner" in Article II).

105. EXEMPTIONS.

- A. Agriculture. The subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwelling shall be exempted from the regulations of this Ordinance.
- B. Revisions to Borough Regulations After Approval of a Development.
1. From the time an application for approval of a plat, whether preliminary or final, has been approved or approved subject to conditions, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to adversely affect the right of the Applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within 5 years from such approval.
 2. If final plan approval is preceded by preliminary plan approval, the 5 year period shall be counted from the date of the preliminary plan approval.

106. INTERPRETATION.

A. Standards.

1. The provisions of this Ordinance shall be interpreted and applied as minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
2. Where provisions, standards, and specifications of this Ordinance conflict with those of any State statute, other ordinance or regulations, the more restrictive requirement shall apply, regardless of its source, unless specified to the contrary.

- B. Illustrations. The illustrations in this Ordinance are for general illustrative purposes, are not part of the regulations of this Ordinance.

107. MODIFICATIONS AND EXCEPTIONS.

- A. An applicant seeking a modification or exception to this Ordinance shall submit to the Township staff a request in writing that states: a) the specific ordinance section(s) involved and b) the reasons for the request. The staff shall provide the request to the Planning Commission for a recommendation. After the Planning Commission has had an opportunity to review the request at a meeting, Borough Council may by written resolution grant a waiver or modifications to those specific

requirements of this Ordinance.

B. The applicant must prove that the waiver or modification will meet one or more of the following conditions:

1. avoid an undue hardship that was not self-created and that results from the peculiar and uncommon conditions of the property, or
2. avoid a clearly unreasonable requirement that would not serve any valid public purpose, or
3. allow an alternative standard that is clearly proven by the applicant to provide equal or better results, or
4. allow a layout or improvements that would clearly be more in the public interest than what would occur if the modification were not granted or
5. remove a requirement that is not applicable, especially because of the small size of the proposed subdivision or land development.

108. FEES.

- A. The Borough Council has established by resolution a schedule of fees and a collection procedure for all applications and other matters pertaining to this Ordinance.
- B. The applicant is also required to pay any review fees required by the Joint Planning Commission and the County Conservation District.
- C. Plans shall not be considered filed until all fees are paid and the applications are properly signed as required.
- D. If the expenses of the Borough for reviews of a subdivision or land development exceed the total fees that have been paid or placed in escrow by an applicant, such excess expenses shall be paid by the applicant prior to release by the Final Plans by the Borough for recording.

109. ALTERNATE PLANS AND RESUBDIVISIONS.

- A. Multiple Plans. Only one plan concerning any one area of land shall be actively before the Borough for review at any one moment in time, unless the Planning Commission specifically permits simultaneous review of alternative plans.

B. Resubdivisions.

1. A revision or resubdivision of a recorded plan or a Final Plan approved by the Borough Council shall be considered as a new subdivision and shall comply with all of the regulations of this Ordinance, except:
2. If the Borough staff determine that a revision is only to correct erroneous data or minor omissions or to revise engineering details or supporting documentation on an approved plan, the plan may be submitted under the simplified requirements and procedures of Section 704.

110. BOROUGH RECORDS. The Borough shall maintain records of the findings, decisions and recommendations of the Planning Commission and Borough Council concerning all subdivision or land development plans and any modifications or exeptions.

111. AMENDMENTS.

- A. The regulations set forth in this Ordinance may, from time to time, be amended by the Borough Council, following the procedures of the PA. Municipalities Planning Code, as amended, including a Borough Council public hearing (with public notice required the State Planning Code).
- B. The Borough staff shall submit each proposed amendment (other than an amendment prepared by the Planning Commission) to the Commission for recommendations at least 30 days prior to the date set for the public hearing on such proposed amendment.
- C. The Borough Council shall submit any proposed amendment to the Joint Planning Commission. The proposed action shall not be taken until the Joint Planning Commission recommendation is made or until 45 days have passed from such submission.

112. APPEALS TO COURTS. Decisions of the Borough Council may be appealed in accordance with the Pennsylvania Municipalities Planning Code, as amended.

113. ENFORCEMENT.

- A. Inspectors. The Borough Council shall authorize one or more persons, which may include the Borough Engineer and his/her representatives, to enforce the provisions of this Ordinance and the accompanying design standards and improvement specifications.
- B. Inspection. Any action under this Ordinance shall be subject to on-site inspection by the Borough or its authorized representatives to ensure that there is compliance with this Ordinance, other Borough Ordinances and the approved plans.
- C. Remedies. Any action inconsistent with the provisions of this Ordinance shall be subject to a cease and desist order and other appropriate measures by the Borough Council, or their authorized representatives.

114. PENALTIES.

- A. Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgement of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof and any closely related engineering fees permitted to be recovered by law, unless a higher penalty is established under State law. This shall include, but not be limited to, any person, partnership or corporation that accomplishes any act listed under Section 104 "Applicability" without following the procedures of this Ordinance.
- B. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- C. See Section 515.3 "Enforcement Remedies" of the State Municipalities Planning Code regarding each day of violation being considered a separate violation. See also the "Remedies" provisions of Section 113.C. of this Ordinance.
- D. Actions to enforce this Ordinance shall be brought by the Borough Council, or their authorized representatives. All fines collected for such violations shall be paid over to the Borough.

115. LIABILITY. Neither the approval nor the granting of any building permit, floodplain permit, site plan review, subdivision or land development approval, zoning permit, erosion review, storm water runoff review, steep slope review or any other review or permit of this Ordinance, involving any land governed by the provisions of this Ordinance, by an official, employee or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official nor employee for any damage that may result pursuant thereto.

116. SEVERABILITY. It is hereby declared to be the legislative intent that:

- A. If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
- B. The Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

117. REPEALER. All other Borough ordinances or parts thereof that were adopted prior to this Ordinance and are clearly in conflict with this Ordinance, including the preexisting Tatamy Borough Subdivision and Land Development Ordinance, as amended, except any provisions that are specifically referenced by this Ordinance, are hereby repealed.
118. STATE PLANNING CODE AMENDMENTS. The provisions of this Ordinance that only repeat, summarize or reference provisions of the State Planning Code shall be deemed to be automatically superceded and replaced by any applicable amendments to the State Planning Code at the date such amendments become effective as State law.
119. LAND DEVELOPMENT REQUIREMENTS. A "land development" shall be required to follow all of the same submission requirements, review procedures and other requirements of this Ordinance as a "major subdivision," unless such land development only would involve the development of only 1 principal non-residential use and/or a maximum of 3 dwelling units, in which case only a final plan submission and approval is required and not a preliminary plan submission or approval.
120. EFFECTIVE DATE. This Ordinance shall become effective 5 days after adoption by the Borough Council.
121. ENACTMENT. Enacted and ordained into an Ordinance this 3rd day of February, 1992.

Date of Borough Council Hearing

February 3, 1992

Date of Adoption

February 3, 1992

Borough Council

President

Attest, Borough Secretary

ARTICLE II

DEFINITIONS

201. GENERAL INTERPRETATION.

- A. For the purposes of this Ordinance, words and terms used herein shall be interpreted as listed in Section 202 of this Ordinance.
- B. If a word is not defined by this Ordinance, but is defined by the Zoning Ordinance as amended, the Zoning Ordinance definition shall apply.
- C. The word "includes" shall mean to specifically include an item but not necessarily limited to such items.
- D. Any word or term not defined in this Article or the Zoning Ordinance have a meaning of standard usage as determined by the Zoning Officer, within the context of the word's use within the applicable section of this Ordinance.

202. DEFINITIONS. When used in this Ordinance, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

Applicant. A landowner or developer who has filed an application for a subdivision or land development, including his heirs, successors and assignees.

Block. A tract of land or a lot or group of lots, bounded by streets, public parks, railroad rights-of-way, watercourses or bodies of water, boundary lines of the Borough or by any combination of the above.

Block Frontage. That distance of a block that abuts a single street.

Boundary Line Adjustment. Shall have the same meaning as "lot line adjustment."

Borough. Tatamy Borough, Northampton County, Pennsylvania. Unless otherwise stated, this shall mean the Borough Council and their authorized agents.

Cartway. The paved portion of a street or highway designed for vehicular traffic and paved areas intended for on-street parking.

Commission. The Planning Commission of Tatamy Borough.

Days. Calendar days.

DER. The Pennsylvania Department of Environmental Resources.

Developer (Subdivider). Any landowner, agent of such landowner or tenant with permission from a landowner, who makes or causes to be made a subdivision of land or land development.

Dwelling Types. See definitions in the Borough Zoning Ordinance.

Easement. A grant by the property owner to the public, a corporation, a person, or group of persons, or another tract of land of a use of land for pecified purposes.

Engineer, Professional. A person licensed to practice as a professional engineer in the Commonwealth of Pennsylvania.

Engineer, Borough. The registered professional engineer designated by the Borough Council to perform all duties required of the Engineer by the provisions of this Ordinance.

Flag Lot. A lot granted preliminary approval after the adoption of this Ordinance that: a) does not meet the minimum lot width of the Zoning Ordinance at the minimum building setback line, b) has its own lot frontage upon a public street, and c) is approved by Borough Council as a modification to the requirements of this Ordinance.

Floodplain. See the Borough Floodplain Ordinance.

Borough Council. The Borough Council of Tatamy Borough.

Grade. The elevation of ground or paving.

Improvement Agreement. An agreement (in a form and manner acceptable to Borough) requiring a developer to install the improvements required by this Ordinance and any improvements or amenities which appear on the plan in accordance with the requirements of this Ordinance.

Land Development. As defined by the State Municipalities Planning Code, as amended. (As of 1991, this definition included the following: The improvement of 1 or more contiguous lots, tracts or parcels of land for any purpose involving either or both of the following:

1. A group of 2 or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure, or
2. The division or allocation of land or space, whether initially or cumulatively, between or among 2 or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups, or other features.)

In addition, "land development" shall specifically not include the following:

1. The construction of only one accessory agricultural building that is not intended for the storage of animal wastes or the storage or feeding of

animals, or

2. The conversion of an existing single family detached dwelling or an existing single family semi-detached dwelling (twin) into only two dwelling units.

Landowner. The owner of a legal or equitable interest in land, including the holder of a formal option or contract to purchase (whether or not such option or contract is subject to any condition), a leasee (if he is authorized under the lease to exercise the right of the landowner), or other person having a proprietary interest in land.

Lot. An area of land within defined lot lines that is a distinct and legally recorded separate parcel of land according to the official records of the County Recorder of Deeds, but not including a "perpart" or a "tract" of one deed.

Lot, Reverse Frontage. A lot that abuts a public street on one side of the lot, but has vehicular access only from a public street on the opposite side of the lot.

Lot Line Adjustment. The revision of a lot line in such a way that no new lot is created, no street is created, extended or changed in alignment, that no additional nonconformities will be created under the Borough Zoning Ordinance and that no new land development will occur other than a land development that was previously approved.

Maintenance Agreement. An agreement in a form and manner acceptable to the Borough Council requiring the developer of required improvements to make any repairs or reconstructions and to maintain such improvements for a certain period.

Maintenance Guarantee. Financial security which is acceptable to the Borough to secure the promise made by a developer in the Maintenance Agreement that required improvements shall be maintained by the developer. (Note: These guarantees typically include acceptable letters of credit, performance bonds, escrow agreements, and other similar collateral or surety agreements).

Mobile Home Space. An area of land in a mobile home park, improved with the necessary utility connection and other appurtenances necessary for the placement thereon of a single mobile home, with the land leased or rented by the park owner to the occupants of the mobile home placed on the lot.

Municipalities Planning Code. The Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, and as may be further amended, or its successor legislation.

Open Space. The area of a lot unoccupied by principal or accessory structures, streets, driveways, parking areas; but may include areas occupied by walkways, picnic pavillions, play equipment and other areas occupied by noncommercial outdoor recreation facilities.

Open Space, Common. An area of land and/or water within a subdivision or land development tract that is open space designed and intended for the common recreational use of residents of a development or the general public, that is permanently preserved as common open space and that does not include any part of the setback areas required for individual dwellings or buildings or uses under the Zoning Ordinance and that does not include areas that are used for stormwater detention that do not have a clear recreation function.

Open Space, Public. Common open space owned by a government agency or the Borough for public recreation.

Ordinance, This. The Tatamy Borough Subdivision & Land Development Ordinance and any provisions or amendments thereof, enacted by the Borough Council.

Parcel. A tract, lot, or area of land.

Parking. Outdoor areas or specially designed buildings or garages used for the storage of vehicles. Unless otherwise stated, shall mean off-street parking.

Pathway. A pedestrian accessway which is not adjacent to a street or access drive and conforms with this Ordinance.

PennDOT. The Pennsylvania Department of Transportation.

Performance Guarantee. Financial security which is acceptable to the Borough Council to secure the promise made by a developer in the Development Agreement that certain improvements shall be made by the developer. (Note: This typically includes acceptable letters of credit, performance bonds, escrow agreements, and other similar collateral or surety agreements).

Plan (or Plat). A map of a land development or subdivision of land.

1. Sketch Plan. An informal plan, identified as such with the title "Sketch Plan" on the map, indicating the general layout of the proposed subdivision or land development.
2. Preliminary Plan. A complete plan, identified as such with the title "Preliminary Plan," accurately showing proposed streets and lot layout and such other information as required by this Ordinance.
3. Final Plan. A complete and exact plan, identified as such with the title "Final Plan," including the plan prepared for official recording as required by this Ordinance to define property rights and proposed streets and other improvements.

Planning Commission. See "Commission."

Sewage Disposal System. A system designed to collect, treat and dispose of sewage from users in compliance with regulations of PA. DER and the Borough.

1. Central Sewage Service. Service by a sewage disposal system which collects, treats and disposes sewage from more than 1 dwelling, principal use or lot. "Public Sewage" service shall mean service by a municipally-owned sewage system.
2. On-Lot Sewage Service. Service by a sewage disposal system which collects, treats and disposes of sewage or holds sewage from only 1 dwelling unit, principal use or lot.

Sidewalk. A pedestrian accessway which is adjacent to a street or access drive and conforms to the regulations of this Ordinance.

Soil Conservation District. The Northampton County Conservation District.

Soil Survey. The latest version of the official Soil Survey of Northampton County, published by the U.S. Soil Conservation Service.

State. The government of the Commonwealth of Pennsylvania and its relevant subparts.

State Planning Code. See "Municipalities Planning Code."

Street. A public or private thoroughfare which affords the principal means of access to abutting property or that is an expressway, but not including an alley or a driveway.

Street Classification. See the Official Street Classification Map, which was adopted as part of the Borough Zoning Ordinance. This Map classifies streets as Expressway, Arterial, Collector or Local Streets.

Street, Cul-de-sac. A type of street which is terminated at one end by a permitted turn-around and which intersects another street at the other end.

Street, Marginal Access. A type of local street which is parallel and adjacent to collector or arterial streets and provides access to abutting properties.

Subdivider. See "Developer."

Subdivision. As defined by the State Municipalities Planning Code, as amended. (As of 1991, this definition was as follows:

1. The division or redivision of a lot, tract or parcel of land by any means into 2 or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

2. The subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwellings is not a subdivision.)

Subdivision, Major. Any subdivision of land which does not qualify as a minor subdivision.

Subdivision, Minor. Land, not involving a land development, which is either:

1. a "lot line adjustment" or
2. a subdivision:
 - a. that results in only 1 or 2 new residential lots, or 1 or 2 clearly agricultural lots of more than 10 acres each, in addition to the one pre-existing "parent" lot and
 - b. which does not involve an extension or new segment of a street, other than what was previously approved, and
 - c. which has not involved the subdivision approval of at least 3 lots on the tract within the 5 previous years.

Subdivision Ordinance. The Tatamy Borough Subdivision and Land Development Ordinance, as amended.

Substantially Completed. In the judgment of the Borough Engineer at least 90 percent (based upon the cost of the required improvements for which financial security was posted) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

Tract. One or more abutting or adjacent lots proposed to be subdivided or developed following an overall coordinated plan.

Tract Area, Gross. The space contained within the exterior lot lines of a tract proposed for a subdivision or land development, not including space within the existing and future or ultimate right-of-way of existing streets, but including right-of-way of any streets proposed to be constructed within the tract.

USGS. United States Geological Survey, or its successor agency.

Walkway. A strip of land including a right-of-way dedicated to public use in order to facilitate pedestrian access through or into a block.

Watercourse. Any natural or artificial waterway, stream, river, creek, ditch, channel, canal, conduit, gully or ravine in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel and bed and shall include any area adjacent thereto subject to inundation by reason of overflow of floodwaters.

Water, Central System or Service. Service by a water system which transmit water from a common source to more than 1 dwelling, principal use or lot.

Water, On-Lot System or Service. Service by a water system which transmits water from a source on the lot to only 1 dwelling, principal use or lot.

Water, Public System or Service. Central water service that is owned and/or operated by a Municipal Authority or a PA. PUC regulated water company and that serves more than 50 dwelling units or principal uses.