

# HIGHLAND TOWNSHIP CHESTER COUNTY

## SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

No. 2009-3

Developed and submitted to Highland Township

by

Brandywine Conservancy



With direct support

from

Highland Township Board of Supervisors, Planning Commission, Township Secretary,  
Township Engineer,

and

Chester County Board of Commissioners, Vision Partnership Grant Program

**Highland Township  
Subdivision and Land Development Ordinance  
Ordinance No. 2009 – 3**

**TABLE OF CONTENTS**

**Article**

<b>I.</b>	<b>Purpose and Authority</b>	
	Section 100. Title .....	I-1
	Section 101. Short Title .....	I-1
	Section 102. Purpose.....	I-1
	Section 103. Authority .....	I-2
	Section 104. Jurisdiction.....	I-2
	Section 105. Interpretation.....	I-3
	Section 106. Severability .....	I-3
	Section 107. Repealer .....	I-4
	Section 108. Enactment .....	I-4
<b>II.</b>	<b>Definition</b>	
	Section 200. General.....	II-5
	Section 201. Definitions.....	II-6
<b>III.</b>	<b>Procedures for Subdivision and Land Development</b>	
	Section 300. General Provisions .....	III-27
	Section 301. Pre-Application Planning and Design Procedures.....	III-30
	Section 302. Sketch Plans.....	III-33
	Section 303. Preliminary Plans .....	III-35
	Section 304. Final Plans.....	III-40
<b>IV.</b>	<b>Plan Content Requirements</b>	
	Section 400.Required Contents of Existing Resources and Site Analysis Plan... IV-47	
	Section 401. Required Contents of Sketch Plans .....	IV-50
	Section 402. Required Content of Preliminary Plans.....	IV-52
	Section 403. Required Content of Final Plans.....	IV-57
	Section 404. Impact Studies and Assessments .....	IV-59
	Section 405. Historic Resource Impact Study .....	IV-60
	Section 406. Environmental Impact Assessment (EIA) .....	IV-61
	Section 407. Community Impact Assessment .....	IV-64
	Section 408. Traffic Impact Study.....	IV-65
<b>V.</b>	<b>DesignStandards</b>	
	Section 500. Applications .....	V-67
	Section 501. General Standards.....	V-67

Section 502. Blocks.....	V-67
Section 503. Lots and Lot Standards .....	V-68
Section 504. Roads - General.....	V-70
Section 505. Road Standards .....	V-72
Section 506. Road Alignment .....	V-73
Section 507. Road Grades.....	V-73
Section 508. Road Intersections.....	V-74
Section 509. Alleys .....	V-75
Section 510. Road Construction Standards.....	V-75
Section 511. Road Signs .....	V-79
Section 512. Private Roads .....	V-80
Section 513. Easements .....	V-80
Section 514. Driveways .....	V-81
Section 515. Curbs.....	V-84
Section 516. Sidewalks .....	V-86
Section 517. Trails .....	V-87
Section 518. Erosion and Sedimentation Control.....	V-91
Section 519. Sewage Disposal .....	V-92
Section 520. Water Supply / Fire Protection .....	V-99
Section 521. Other Utilities.....	V-102
Section 522. Monuments and Markers .....	V-103
Section 523. Parking Areas.....	V-104
Section 524. Grading .....	V-105
Section 525. Natural Features Conservation.....	V-106
Section 526. Landscaping, Screening, and Road Trees.....	V-106
Section 527. Outdoor Lighting .....	V-109
Section 528. Green Design Standards.....	V-110

**VI. Stormwater Management**

Section 601. Statement of Findings .....	VI-113
Section 602. Purpose.....	VI-114
Section 603. Applicability / Regulated Activities.....	VI-115
Section 604. Exemptions .....	VI-118
Section 605. General Requirements.....	VI-119
Section 606. Permit Requirements by Other Governmental Entities .....	VI-122
Section 607. Nonstructural Project Design / Sequencing to Minimize Stormwater Impacts.....	VI-123
Section 608. Groundwater Recharge .....	VI-125
Section 609. Water Quality Requirements.....	VI-139
Section 610. Stream Bank Erosion Requirements .....	VI-131
Section 611. Stormwater Peak Rate Control.....	VI-131
Section 612. Calculation Methodology.....	VI-133
Section 613. Other Requirements .....	VI-134
Section 614. Conveyance System .....	VI-136
Section 615. Inspections .....	VI-138
Section 616. Maintenance Responsibilities .....	VI-138
Section 617. Prohibitions .....	VI-142

Section 618. Right-of-Entry.....	VI-144
<b>VII. Mobile Home Parks .....</b>	<b>VII-145</b>
<b>VIII. Improvement Guaranties and Acceptance</b>	
Section 800. Construction of Improvements .....	VIII-147
Section 801. Improvement Guarantee Requirements .....	VIII-147
Section 802. Inspections .....	VIII-149
Section 803. Release from Performance Guarantee .....	VIII-150
Section 804. Remedies for Completion of Improvements.....	VIII-151
Section 805. As-built Plans .....	VIII-151
<b>IX. Administrations</b>	
Section 900. Records .....	IX-155
Section 901. Fees and Costs.....	IX-155
Section 902. Modifications .....	IX-156
Section 903. Sanctions and Penalties.....	IX-156
Section 904. Appeals .....	IX-158
Section 905. Revision and Amendment.....	IX-158

**Appendices**

Appendix A. Voluntary Stormwater Management Procedures for Projects Meeting the Land Cover Exemption Criteria

Appendix B. Low Impact Development (LID) Practices

Appendix C. Stormwater Management Design Criteria

Appendix D. Stormwater Controls and Best Management Practices Operations and Maintenance Agreement

**ORDINANCE NO. 2009 – 3**

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE  
HIGHLAND TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA**

An ordinance establishing rules, regulations, and standards governing the subdivision and development of land within Highland Township, setting forth the procedures to be followed by the Board of Supervisors, Planning Commission, and other named parties in administering these rules, regulations and standards, and setting forth the penalties for the violation thereof.

**ARTICLE I  
PURPOSE AND AUTHORITY**

**Section 100 Title**

An ordinance establishing rules, regulations, and standards governing the subdivision and development of land within Highland Township, setting forth the procedures to be followed by the Board of Supervisors and Planning Commission in administering these rules, regulations and standards, and setting forth the penalties for the violation thereof.

**Section 101 Short Title**

These regulations shall be known and may be cited as “The Highland Township Subdivision and Land Development Ordinance.”

**Section 102 Purpose**

The regulations are adopted for the following purposes:

- A. To further the goals and policies of the Highland Township Comprehensive Plan.
- B. To promote the health, safety, and general welfare of the residents of the municipality.
- C. To promote the conservation and enhancement of the rural character of the Township.
- D. To ensure the development of land will be conducted with due regard to topography, geologic conditions, and natural and cultural resources, so that the highest quality environment is obtained.
- E. To ensure that proper provision shall be made for pedestrian and vehicular access and circulation, stormwater management, water supply, wastewater treatment and disposal,

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article I – Purpose and Authority**

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public utilities and other community services and facilities, and to provide for adequate coordination of existing and new facilities.

- F. To provide for adequate light, air, open space, recreation, road trees, and landscape quality.
- G. To encourage and promote flexibility, economy and ingenuity in the layout and design of subdivisions and land developments to facilitate realization of these purposes.
- H. To establish procedures and standards for applicants, the Planning Commission and the Board of Supervisors.

**Section 103 Authority**

This Ordinance has been prepared under the authority and is consistent with the terms and requirements of the Pennsylvania Municipalities Planning Code (53 P.S. §10101 et seq., Act 1988-170, as amended) (MPC) and is in accordance with the police power authority granted to the Township under the Township Code. It is intended to further the objectives of Article I, Section 27 of the Constitution of the Commonwealth of Pennsylvania, and of the Highland Township Comprehensive Plan.

**Section 104 Jurisdiction**

- A. Subdivision and Land Development Control. It shall be unlawful for the owner or any other person, firm, or corporation owning or controlling any land in Highland Township, to subdivide any lot, tract, parcel of land, or interior or exterior space by leasehold or other means, including the creation of condominium units, to otherwise undertake any land development as defined herein, or to lay out, construct, open or dedicate for public use or travel, any road, sanitary or storm sewer drainage facility or other facility in connection therewith, for the common use of occupants of buildings located within the subdivision or land development, unless the following conditions have been met:
  - 1. Final plans for any such subdivision or land development shall: (a) have been prepared and signed by and sealed by a professional engineer or land surveyor or landscape architect registered in the Commonwealth of Pennsylvania, as permitted by the applicable registration laws, duly and currently in force; (b) have been submitted to and approved in writing thereon by the Board of Supervisors subsequent to meeting all applicable requirements set forth in this Ordinance; and (c) have been recorded in the Chester County Recorder of Deeds office in West Chester, Pennsylvania; and
  - 2. Proper completion of any improvements required by the Township has been guaranteed by deposit of funds or financial security sufficient to cover the cost of improvements, inspections and legal fees.

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article II – Definitions**

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- B. In order to aid the Board of Supervisors in their considerations of subdivision and land development applications, the Board of Supervisors hereby decrees that the Planning Commission of Highland Township shall serve the following functions:
1. All plans, whether major or minor, upon submission to the duly-authorized representative of the Township, shall be referred to the Planning Commission for review.
  2. The Planning Commission shall make recommendations to the Board of Supervisors concerning approval, disapproval, modification, and/or conditions for approval of such plans.
  3. The Planning Commission shall make recommendations to the Board of Supervisors concerning the interpretation and the modification of the provisions and standards of this Ordinance.
- C. Prior to the approval of any plan by the Board of Supervisors, a complete copy of the proposed submission shall have been transmitted to the Chester County Planning Commission, and the Commission shall have thirty (30) days in which to review and make recommendation(s) in the form of a report to the Board in regard to such submission. Pending the receipt and consideration of such report, the Board of Supervisors shall defer action thereon, but if such report is not received by the Board within thirty (30) days from the submission of the plan to the Chester County Planning Commission, or within such further time as may be agreed upon by the Board of Supervisors, the Board may proceed to final action thereon.

**Section 105 Interpretation**

- A. The provisions of this Ordinance shall be held to be minimum requirements to meet the above stated purposes. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Ordinance shall prevail. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than those of this Ordinance, the provisions of such statute, ordinance, or regulation shall prevail.
- B. Wherever the provisions of this Ordinance mirror language found in the MPC, in the event of subsequent modifications thereof that do not explicitly overrule provisions herein, then the provisions of the more restrictive statute or ordinance shall apply.

**Section 106 Severability**

It is hereby declared to be the Board of Supervisors' intent that:

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article I – Purpose and Authority**

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- 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. If a court of competent jurisdiction finds the application of any provision or provisions of this Ordinance to any lot, building or other structure, or tract of land, to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

**Section 107 Repealer**

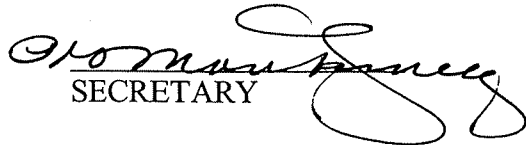
All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent that such Ordinances or parts of Ordinances are inconsistent herewith. Ordinance No. 209, The Highland Township Subdivision and Land Development Regulations of 1979, and subsequent amendments thereto, are hereby specifically repealed.

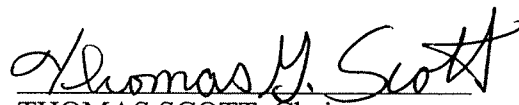
**Section 108 Enactment**

This Ordinance shall become effective ten (10) days after publication as required by law.

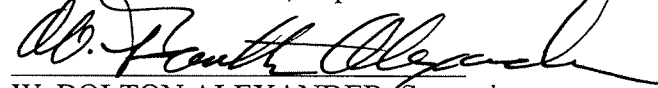
**ADOPTED** by the Board of Supervisors of the Township of Highland, this 13 day of Oct. 2009.

**ATTEST:** (SEAL)

  
SECRETARY

  
THOMAS SCOTT, Chairman

RICHARD ABBOTT, Supervisor

  
W. BOLTON ALEXANDER, Supervisor



**ARTICLE II**  
**DEFINITIONS**

**Section 200 General**

- A. Unless otherwise expressly stated or the context clearly indicates another meaning, the following words and phrases shall be construed throughout this Ordinance to have the meanings indicated below.
1. Words used in the present tense include the future.
  2. The singular includes the plural, and the plural includes the singular, except that such interchange of meaning shall not apply where numbers in the text refer to specific minimum and maximum quantities.
  3. The masculine gender includes the feminine and neuter.
  4. The word “person” includes an individual, estate, trust, firm, corporation, partnership, company, association, incorporated association or government entities including a trustee, a receiver, an assignee, or a similar representative or entity.
  5. The word “lot” includes the word “plot” or “parcel.”
  6. The word “may” is permissive; the words “shall” and “must” are mandatory.
  7. The word “used” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used.”
  8. The word “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be occupied.”
  9. The words “as amended from time to time” and the like as applied to any statute, ordinance, code regulation, plan or map, includes replacements, supplements or restatements thereof;
  10. References to a particular Article, Section or Subsection which inherently refers to other Articles, Sections or Subsections, includes all Articles, Sections or Subsections referred to.
  11. The word “Supervisors” and the words “Board of Supervisors,” where not otherwise specified, shall mean the Highland Township Board of Supervisors.

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article II - Definitions**

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12. The words "Governing Body" refer to the Highland Township Board of Supervisors.
  13. The word "Commission" and the words "Planning Commission" or "Township Planning Commission," where not otherwise specified, shall mean the Highland Township Planning Commission.
  14. The words "Zoning Ordinance" shall refer to the Highland Township Zoning Ordinance, as amended.
  15. The words "comprehensive plan" refer to the Highland Township Comprehensive Plan.
- B. The terms "such as," "including" and the like are intended to introduce matters which are illustrative of the meaning of the sentence, clause or phrase in which such terms appear without limiting or derogating from the general application of the sentence, clause or phrase in which such terms appear. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof".
- D. In addition to the definitions in this article, additional definitions in this or other ordinances, applicable regulations, or appendices thereto may apply or be called into application by reference. In case of conflict, the more stringent or restrictive definition shall apply.
- E. Any word or term not defined herein shall be interpreted as having that meaning in standard usage.

**Section 201 Definitions**

For the purpose of this Ordinance, the following words, terms and phrases have the meanings indicated herein:

**ABANDONMENT** - The relinquishment of a use without the intention to resume the said use as provided for in Article XIII of the Highland Township Zoning Ordinance.

**ACRE** - An area of land and/or water which equals forty three thousand, five hundred sixty (43,560) square feet, measured on horizontal plans.

**AGENT** - Any person, other than the developer, who, acting for the developer, submits to the Township subdivision or land development plans for the purpose of obtaining approval thereof.

*Article II – Definitions*

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**AGRICULTURE** - The cultivation of the soil, and the raising, harvesting and/or storage of the products of the soil (no matter where raised), including but not by way of limitation: nurserying, horticulture, foresting and the breeding, raising and maintenance of livestock.

**AGRICULTURAL OPERATION** - An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products, including horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged in by farmers or consistent with technological development within the agricultural industry.

**ALLEE** – for landscape design purposes, a path, lane, driveway, road or street lined with trees on both sides, typically planted in linear rows with regular spacing.

**ALLEY** - A minor way, which may or may not be legally dedicated, used primarily for vehicular service access to the rear or side of properties otherwise abutting on a road or road.

**ALLUVIAL SOILS** - Areas subject to periodic flooding as defined in the Chester and Delaware Counties, Pennsylvania Soil Survey, 1963, No. 19, as amended, and reclassified in the Soil Survey Geographic Database for Chester County, PA, U.S. Department of Agriculture, Natural Resources Conservation Service, 1997.

**ALTERATION** -

- A. As applied to land, any change in topography as a result of the moving of soil and rock from one location or position to another; also the changing of surface conditions by causing the surface to be more or less impervious; or any change which would alter the type or method of wastewater disposal system; any land disturbance.
- B. As applied to buildings or other structures, any change or rearrangement, other than a repair, in the supporting members of an existing building such as bearing walls, columns, beams, or girders, as well as any change in exterior doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one (1) location to another.

**APPLICANT** - A landowner or developer, as hereinafter defined, who has filed a complete application for subdivision and/or land development, including heirs, successors, assigns and grantees.

**APPLICATION FOR DEVELOPMENT** - Every application, for subdivision or land development, whether preliminary, tentative, or final, required to be filed and approved prior to the start of construction or development, including but not limited to an

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article II - Definitions**

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application for a building permit, for the approval of a subdivision plat or plan, or for approval of a development plan.

**AREA –**

- A. Lot Area: The area contained within the property lines of an individual parcel of land.
- B. Net Area: That area not within any road right-of-ways and adjoining property lines of a given lot.

**AUTHORITY** - A body politic and corporate created pursuant to the Municipal Authorities Act of 1945, as amended.

**ARCHITECTURAL FEATURE** - A prominent or significant part or element of a building, structure, or site.

**BERM** - A mound of earth which serves such purposes as directing the flow of surface water runoff, preventing soil erosion or supporting plant materials or fencing to aid in screening or buffering.

**BEST MANAGEMENT PRACTICES (BMPs)** - Management practices or methods for controlling stormwater runoff which provide a hydrological (i.e., reduction of runoff volumes) and a water quality (i.e., reduction of pollutants) benefit.

**BLOCK** - A tract of land bounded by roads, public parks, railroad right-of-way or corporate boundary lines of the Township or any combination thereof.

**BOARD** - The Board of Supervisors of Highland Township or the official, person, or committee designated by the Board of Supervisors to act with respect to a particular matter set forth herein.

**BUFFER (AREA)** - An area on which is placed and maintained year-around shrubbery, hedges, evergreens or other suitable plantings of sufficient height and density to provide a visual and sound screen from abutting properties and/or districts. A buffer area may include an earthen berm, a depression, a wall or fence, or a solid wall or fence, provided that such wall or fence shall be screened or constructed in such a manner that it will not conflict with the character of the abutting district.

**BUILDING** - A combination of materials forming a permanent structure having walls and a roof. Manufactured homes and trailers for human habitation are included in this definition.

**BUILDING ENVELOPE** - The area within a lot within which a building may be placed, as defined by the minimum yard setbacks and the setbacks from natural resources.

*Highland Township Subdivision and Land Development Ordinance No. 2009 - 3*  
*Article II – Definitions*

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- BUILDING PERMIT** - An approval statement signed by the Code Officer authorizing the construction, alteration, reconstruction, restoration, demolition or razing of all or a part of any building or structure within the Township.
- BUILDING SETBACK LINE** - The line established within a lot, measured from the road right-of-way and parallel thereto, defining the minimum distance in which no building may be constructed. In the case of an existing interior lot not fronting a road for its entire width, the building setback line shall be a line parallel to the road right-of-way measured from the property interior line nearest the road, defining the minimum distance in which no building may be constructed. Also known as the minimum front yard setback.
- BULK** - The term used to describe the size of buildings or other structures and their relationship to each other, to open areas, such as yards and to lot lines, and the size, height and floor areas of buildings or other structures; the relation of the number of dwelling units in a residential building to the area of the lot (usually called density); all open areas in yard space relating to buildings and other structures.
- CALIPER** - The diameter of a tree trunk measured at a point six (6) inches above ground level.
- CARTWAY** - The paved portion of a road or right-of-way, intended for vehicular use.
- CLEAR-SIGHT DISTANCE** - A line of unobstructed vision from a point four and one-(4 ½) half feet above the center line of a road to the farthest visible point on the top of an object four (4) inches high on the same center line.
- CLEAR-SIGHT TRIANGLE** - An area of unobstructed vision at a road intersection as defined by lines of sight between points at a given distance from the intersection down the center lines of the road.
- CLUSTER DEVELOPMENT** - An arrangement of dwellings that allows for reducing lot area and yard requirements and incorporating the remaining area as permanent open space.
- COMMON OPEN SPACE** - A parcel or parcels of land or an area of water, or a combination of land and water within a development site designed and intended for the use or enjoyment of residents of a development, not including roads, off-road parking areas, and areas set aside for public facilities.
- COMMUNITY FACILITIES** - The facilities which contain various community health, education, safety, leisure, and like services and the locations at which these services are provided. Typical community facilities include: schools, parks and recreation areas, libraries, health care facilities, fire protection, police, ambulance and rescue services and postal services.
- COMPREHENSIVE PLAN** - The Comprehensive Plan officially adopted by the Highland Township Board of Supervisors.

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article II - Definitions**

---

**CONDOMINIUM** - A type of ownership wherein each apartment or dwelling unit is owned in fee by its occupant, while the land and such appurtenances as driveways, parking areas, sidewalks, landscaping, swimming pools and other recreation facilities, road lighting, heating facilities, entrance lobbies, halls, elevators and on-site utilities remain under the ownership, with full responsibility for maintenance, of the developer or any organization holding title to such land and appurtenances in accordance with the Pennsylvania Uniform Condominium Act of 1980 (68 Pa.C.S. §§ 3101-3404). The unit may be any permitted dwelling type.

**CONSTRUCTION** - The construction, reconstruction, erection, rebuilding, renovation, repair, extension, expansion, alteration, demolition or relocation of a building or structure including the placement of mobile homes.

**COVERAGE, LOT** - The ratio of the total ground floor area of all buildings and other impervious surfaces on a lot to the total area of the lot on which they are located.

**CROSSWALK** - A marked or specially constructed crossing of a public or private road or other vehicular accessway designed to enhance pedestrian safety and facilitate pedestrian circulation.

**CULVERT** - A structure, including appurtenant works, which carries water under or through an embankment or fill.

**CUT** - The removal of soil or rock from its natural or predevelopment location.

**DAM** - An artificial barrier, together with its appurtenant works, constructed for the purpose of impounding or storing water or another fluid or semi-fluid, or a refuse bank, fill or structure for highway, railroad, or other purposes which does or may impound water or another fluid or semi-fluid.

**DATE OF FILING** - Date on which the application, together with all required information, fees, etc, is determined by the Township Secretary to be administratively complete. The Township Secretary shall make this determination within ten (10) business days of application receipt.

**DECISION** - Final adjudication of any board or other body granted jurisdiction under this Ordinance or the MPC to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations.

**DENSITY** - The total land area divided by the total number of dwellings located thereon, expressed in dwelling units (DU) per acre.

**DESIGNATED OPEN SPACE** - Areas allocated to meet requirements for open space.

**DESIGN STANDARDS** - Regulations adopted pursuant to this Ordinance imposing standards by which a subdivision or land development must comply.

*Highland Township Subdivision and Land Development Ordinance No. 2009 - 3*  
*Article II – Definitions*

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- DETENTION BASIN - An impoundment structure designed to manage stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate.
- DEVELOPER - Any landowner, agent of such landowner, or tenant with the permission of such landowner, or equitable owner who makes or causes to be made a subdivision of land or a land development.
- DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; roads and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
- DRAINAGE - The flow of water or liquid waste and the methods of directing such flow, whether natural or artificial.
- DRAINAGE EASEMENT - A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
- DRAINAGE FACILITY - Any ditch, gutter, pipe, culvert, storm sewer, retention basin, detention basin, or other structure designed, intended, or constructed for the purpose of controlling or diverting surface waters or carrying surface waters off roads, public rights-of-way, parks, recreational areas, or any part of any subdivision, land development, or contiguous land areas.
- DRIVEWAY - A private access, graded and typically paved, intended primarily for use as a means of vehicular access from a road to a parking space, parking lot, individual dwelling or other structure.
- DRIVEWAY, SHARED OR COMMON - A driveway which is shared between two separate lots.
- DWELLING UNIT - A structure designed or used to provide complete, independent living facilities for one (1) family or for a common household, including permanent provisions for living, sleeping, eating, cooking, and sanitation, but excluding individual rental units in a motel, rooming house, tourist home, institutional home, dormitory, and the like.
- DWELLING UNIT, SUPPLEMENTAL - A smaller secondary dwelling unit within an existing single-family detached dwelling or in an accessory building on the same lot as the principal dwelling where no substantial exterior modifications to the existing building are present.
- EARTH DISTURBANCE ACTIVITY - A construction or other human activity which disturbs the surface of the land, including, but not limited to, clearing and grubbing, grading,

**Highland Township Subdivision and Land Development Ordinance No. 2009 - 3**  
**Article II - Definitions**

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excavation, embankments, road maintenance, building construction and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

EASEMENT - An interest in land, owned by a party other than the owner of the fee interest in the land, that entitles the holder to a specific use, purpose, or enjoyment of the land, or to enforcement of restriction(s) on the use of the land or structures thereon.

ENGINEER, TOWNSHIP - A licensed Pennsylvania registered professional engineer, duly appointed as the engineer for the municipality, planning agency, or joint planning commission.

ENLARGEMENT - An addition to the floor area and/or bulk of an existing building; also an increase in the size of a structure or an increase in that portion of a tract of land occupied by an existing use.

EXISTING RESOURCES AND SITE ANALYSIS PLAN (ERSAP): - For a property (and its vicinity) subject to a subdivision or land development application, the ERSAP is used to document existing landscape, hydrologic, geologic, biotic, land use, and other applicable environmental and cultural resources and conditions, in order to provide a frame of reference for evaluation of the overall land development application by Township officials, citizens, and any other reviewers.

EROSION - The wearing away of soil, bedrock or land by water, wind, ice, chemical, or other natural force.

EROSION, ACCELERATED - The removal of the surface of the land through the combined action of man's activity and the natural processes at a rate greater than would occur because of the natural process alone.

ERSAP - See "Existing Resources and Site Analysis Plan."

EXISTING CONDITIONS - The initial condition of a project site prior to the proposed construction.

FILL - Material, exclusive of structures, placed or deposited so as to form an embankment or raise the surface elevation of any portion of the land.

FINISHED GRADE - The final vertical elevation of the ground surface after development.

FLOOD - A general and temporary inundation of normally dry land by water.

FLOOD HAZARD DISTRICT - The floodplain area specifically identified in the Highland Township Zoning Ordinance as being inundated by the one hundred (100) year flood and also referred to as the identified floodplain area.



*Highland Township Subdivision and Land Development Ordinance No. 2009 - 3*  
*Article II – Definitions*

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FLOOD, ONE HUNDRED (100) YEAR - A flood of a high magnitude that is likely to occur an average of once every one hundred (100) years, as delineated by the Federal Flood Insurance Rate Maps (FIRM) developed in the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA). The probability of its occurrence is one (1) percent chance each year; however a one hundred (100) year flood may occur in any year.

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

FLOODPLAIN AREA, IDENTIFIED - The floodplain area specifically identified in the Highland Township Zoning Ordinance as being inundated by the one hundred (100) year flood and also referred to as the Flood Hazard District.

FLOODPLAIN MAP - That map prepared by the Federal Emergency Management Agency (FEMA) for Highland Township, delineating the Floodplain.

FLOODWAY - The area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

FREEBOARD - A margin of safety, expressed in feet, above the 100-year flood elevation.

GRADE - A slope, usually of a road, channel or natural ground specified in percent and shown on plans as specified herein. To finish the surface of a roadbed, top of embankment or bottom of excavation. See also "FINISHED GRADE."

GROUNDWATER RECHARGE - The replacement of water in interconnected pores located below the water table in an aquifer by the infiltration of precipitation, streams, lakes, or other water sources.

HISTORIC RESOURCE - Any building, wall, bridge, structure, road, trail, monument, garden or other landscape feature, archeological site or cultural artifact identified as any of the following:

- A. As an historic site in the Chester County Historic Sites Survey;
- B. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior), or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;