

TOWNSHIP OF SILVER SPRING  
Cumberland County, Pennsylvania

ORDINANCE NO. 4 of 2005

AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING,  
CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING,  
MODIFYING AND CHANGING THE SILVER SPRING TOWNSHIP  
SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF 2003

BE IT ORDAINED by the Board of Supervisors of the Township of Silver Spring,  
Cumberland County, Pennsylvania, as follows:

SECTION 1: The Silver Spring Township Subdivision and Land Development Ordinance of 2003 (the "Subdivision and Land Development Ordinance") is hereby amended as follows and shall be known as the Silver Spring Township Subdivision and Land Development Ordinance of 2005:

Section 203 of the Subdivision and Land Development Ordinance is hereby amended to add the following definition:

Professional Consultants. Persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

Section 303.06 of the Subdivision and Land Development Ordinance is hereby amended to read as follows:

303.06 Review Fees. Review fees for the reasonable and necessary charges for the Township Professional Consultants to review and report on the Preliminary Plan shall be paid by the applicant. Such review fees shall be established by resolution of the Board of Supervisors and shall be reasonable and not more than the total rate of compensation paid by the Township to the respective Township Professional Consultants. The Township, in its discretion, may require the applicant to establish an interest bearing escrow account with the Township to pay review fees or bill the applicant on a monthly basis for the review fees.

If the Township elects to require the applicant to establish an interest bearing escrow account, the initial amount to be deposited in the escrow account shall be determined by the Township based upon an estimate by the Township Professional Consultants. The Township shall provide notice to the applicant each time a payment is made from the escrow account for review fees, which shall include the amount of the payment and the services for which the payment was made. If necessary to cover the cost of review fees, the applicant shall deposit additional funds in the escrow account upon request by the Township. Once all

review fees have been paid, any funds remaining the escrow account shall be refunded to the applicant

If the Township elects to bill the applicant for review fees, the Township shall provide bills to the applicant for review fees, as referenced above, on a monthly basis. The bills for review fees shall be due and payable within thirty (30) days of the date of the bill.

The Board of Supervisors shall require, as a condition of Preliminary Plan approval, that the applicant provide payment to the Township for any outstanding review fees. In the event that an applicant fails to provide payment to the Township for review fees in accordance with the bills for review fees, then:

- a) The Township shall not authorize the continued review of the Preliminary Plan by the Township Professional Consultants; and/or
- b) The Board of Supervisors shall act to deny the Preliminary Plan.

In the event the applicant disputes the amount of any such review fees, the applicant shall no later than forty-five (45) days after the date of transmittal of the bill or notice to the applicant, notify the Township and the Township's Professional Consultant that such fees are disputed and shall explain the basis of the applicant's objections to the fees charged. The Township shall not delay or disapprove the preliminary plan due to the applicant's dispute over fees. Failure of the applicant to dispute a bill or notice within forty-five (45) days shall be a waiver of the applicant's right to arbitration of that bill under Section 510(g) of the Municipalities Planning Code.

In the event the Township, the Township's Professional Consultant and the applicant cannot agree on the amount of review fees, which are reasonable and necessary, then the applicant and the Township shall follow the procedure for dispute resolution set forth in Section 510(g) of the Municipalities Planning Code, provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the Professional Consultant whose fees are being disputed.

Subsequent to a decision on the preliminary plan, the Board of Supervisors shall submit to the applicant an itemized bill or notice for review fees, specifically designated as a final bill or notice. The final bill or notice shall include all review fees incurred at least through the date of the decision on the preliminary plan. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill or notice.

Section 304.07 of the Subdivision and Land Development Ordinance is hereby amended to add the following subsection:

304.07 Review Fees. Review fees for the reasonable and necessary charges for the Township Professional Consultants to review and report on the Final Plan shall be paid by the applicant. Such review fees shall be established by resolution of the Board of Supervisors and shall be reasonable and not more than the total rate of compensation paid by the Township to the respective Township Professional Consultants. The Township, in its discretion, may require the applicant to establish an interest bearing escrow account with the Township to pay review fees or bill the applicant on a monthly basis for the review fees.

If the Township elects to require the applicant to establish an interest bearing escrow account, the initial amount to be deposited in the escrow account shall be determined by the Township based upon an estimate by the Township Professional Consultants. The Township shall provide notice to the applicant each time a payment is made from the escrow account for review fees, which shall include the amount of the payment and the services for which the payment was made. If necessary to cover the cost of review fees, the applicant shall deposit additional funds in the escrow account upon request by the Township. Once all review fees have been paid, any funds remaining the escrow account shall be refunded to the applicant

If the Township elects to bill the applicant for review fees, the Township shall provide bills to the applicant for review fees, as referenced above, on a monthly basis. The bills for review fees shall be due and payable within thirty (30) days of the date of the bill.

The Board of Supervisors shall require, as a condition of Final Plan approval, that the applicant provide payment to the Township for any outstanding review fees. In the event that an applicant fails to provide payment to the Township for review fees in accordance with the bills for review fees, then:

- a) The Township shall not authorize the continued review of the Final Plan by the Township Professional Consultants; and/or
- b) The Board of Supervisors shall act to deny the Final Plan.

In the event the applicant disputes the amount of any such review fees, the applicant shall no later than forty-five (45) days after the date of transmittal of the bill or notice to the applicant, notify the Township and the Township's Professional Consultant that such fees are disputed and shall explain the basis of the applicant's objections to the fees charged. The Township shall not delay or disapprove the Final Plan due to the applicant's dispute over fees. Failure of the applicant to dispute a bill or notice within forty-five (45) days shall be a waiver of

the applicant's right to arbitration of that bill under Section 510(g) of the Municipalities Planning Code.

In the event the Township, the Township's Professional Consultant and the applicant cannot agree on the amount of review fees, which are reasonable and necessary, then the applicant and the Township shall follow the procedure for dispute resolution set forth in Section 510(g) of the Municipalities Planning Code, provided that the arbitrator resolving such dispute shall be of the same profession or discipline as the Professional Consultant whose fees are being disputed.

Subsequent to a decision on the Final Plan, the Board of Supervisors shall submit to the applicant an itemized bill or notice for review fees, specifically designated as a final bill or notice. The final bill or notice shall include all review fees incurred at least through the date of the decision on the Final Plan. If for any reason additional review is required subsequent to the decision, including inspections and other work to satisfy the conditions of the approval, the review fees shall be charged to the applicant as a supplement to the final bill or notice.

Section 506 of the Subdivision and Land Development Ordinance is hereby amended to delete the following paragraph and replace it with the provisions set forth below:

Delete: An escrow account providing for inspection of bondable improvements shall be established prior to plan recording in the amount of 4% of the total cost of the improvements. Any unused escrow fees will be returned to the applicant following completion of the development.

Add: Fees for the reasonable and necessary charges for the Township's Professional Consultants in connection with the inspection of improvements shall be paid by the applicant. The applicant shall not be required to reimburse the Township for any inspection, which is duplicative of inspections conducted by other governmental agencies or public utilities. The burden of proof that any inspection is duplicative shall be upon the objecting applicant. Such inspection fees shall be established by resolution of the Board of Supervisors and shall be reasonable and not more than the total rate of compensation paid by the Township to the respective Professional Consultants. The Township, in its discretion, may require the applicant to establish an interest bearing escrow account with the Township to pay inspection fees or bill the applicant on a monthly basis for the inspection fees.

If the Township elects to require the applicant to establish an interest bearing escrow account, the initial amount to be deposited in the escrow account shall be deposited prior to plan recording and shall be 4% of the total cost of the improvements. The Township shall provide notice to the applicant each time a payment is made from the escrow account for inspection fees, which shall include the amount of the payment and the services for which the payment was made. If necessary to cover the cost of inspection fees, the applicant shall deposit additional funds in the escrow account upon request by the Township. Once all

inspection fees have been paid, any funds remaining the escrow account shall be refunded to the applicant

If the Township elects to bill the applicant for inspection fees, the Township shall provide itemized bills to the applicant for inspection fees, as referenced above, on a monthly basis, showing the work performed in connection with the inspection of improvements, identifying the person performing the services, the time spent and the date for each task. Said bills shall be due and payable within thirty (30) days of the date of the bill.

In the event the applicant disputes the amount of any such inspection fees, the applicant shall no later than thirty (30) days after the date of transmittal of the bill or notice to the applicant, notify the Township and the Township's Professional Consultant that such fees are disputed and shall explain the basis of the applicant's objections to the fees charged. The Township shall not delay or disapprove a request for release of financial security, a subdivision or land development plan of any approval or permit related to development due to the applicant's dispute over fees. Failure of the applicant to dispute a bill or notice within thirty (30) days shall be a waiver of the applicant's right to arbitration of that bill under Section 510(g) of the Municipalities Planning Code.

Subsequent to the final release of financial security for completion of improvements for a subdivision or land development, or any phase thereof, the Professional Consultant shall submit to the Board of Supervisors a bill or notice for inspection services, specifically designated as a final bill or notice. The final bill or notice shall include inspection fees incurred through the release of financial security

In the event the Township's Professional Consultant and the applicant cannot agree on the amount of inspection fees, which are reasonable and necessary, within twenty (20) days of the date of billing or notice, then the applicant shall have the right, within forty-five (45) days of the transmittal of the final bill or notice to the applicant to request the appointment of another Professional Consultant to serve as an arbitrator. The applicant and Professional Consultant whose fees are being challenged shall, by mutual agreement, appoint another Professional Consultant to review any bills or notices the applicant has disputed and which remain unresolved and make a determination as to the amount thereof, which is reasonable and necessary. The arbitrator shall be of the same profession as the Professional Consultant whose fees are being challenged. The arbitration shall follow the procedure set forth in Section 510(g) of the Municipalities Planning Code.

SECTION 2: In all other respects, the Subdivision and Land Development Ordinance shall remain as heretofore enacted, ordained and amended.

SECTION 3: Any ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4: This Ordinance shall become effective upon enactment.

28<sup>th</sup> DULY ENACTED AND ORDAINED INTO LAW as Ordinance No. 4 of 2005 this day of September, 2005 by the Board of Supervisors of the Township of Silver Spring.

ATTEST:

BOARD OF SUPERVISORS  
TOWNSHIP OF SILVER SPRING

Lee Ellen Adams  
Township Secretary

Wayne M. Kull  
Chairman