

## CODE OF CONDUCT FOR PENNSYLVANIA MUNICIPAL ENGINEERS and CONSULTING ENGINEERS IN THE LAND DEVELOPMENT PROCESS

In Pennsylvania, there are a multitude of regulations that govern the Land Development Process, including but not limited to: The Municipalities Planning Code (MPC), Municipal Zoning Ordinances (ZO), Subdivision & Land Development Ordinances (SLDO), Storm Water Management Ordinances (SWMO), Pennsylvania Department of Environmental Protection (PADEP) Regulations, Pennsylvania Department of Transportation (PADOT) Regulations, Conservation District (CD) Regulations, etc.

Pennsylvania Registered Professional Engineers (PE's) play a key role in the Land Development process. PE's (Municipal Engineers) are retained by Municipalities to review Plans and Calculations (hereinafter referred to as the "Design") prepared by other PE's (Consulting Engineers) hired by Landowners and Developers (hereinafter referred to as "Landowners"). PE's are called upon by both Municipalities and Landowners to provide professional expertise and experience to the Land Development process. This process has evolved into a system of checks and balances between the Municipal Engineer retained to serve the interests of the Municipalities and the Consulting Engineer hired to serve the interests of the Landowners. While both Municipal Engineers and Consulting Engineers are bound by the same National Society of Professional Engineers (NSPE) Code of Ethics, both have different obligations in their roles as advocates for their respective Clients. Municipal Engineers are obligated to be strong advocates for the Municipalities they are retained to serve. Consulting Engineers are obligated to be equally strong advocates for the Landowners they are hired to serve. In their respective advocacy roles, both Municipal Engineers and Consulting Engineers are bound by the same Pennsylvania regulations governing the Land Development Process.

In a simplistic view, it would seem that the Land Development process should be straightforward and without conflict, since both Municipal Engineers and Consulting Engineers are bound by the same Pennsylvania Land Development Regulations and NSPE Code of Ethics. However, in practice, this is not the case, nor can it be. The Land Development process is complex. Each property is different, carrying with it a set of site specific characteristics. In addition, each Land Development is unique, and is the vision and creation of the Landowner. Accordingly, the advocacy roles of the Consulting Engineer and Municipal Engineer are quite different.

The Consulting Engineer is directly responsible for the soundness of the Design prepared under his/her direct charge, within the Standard of Care of the profession. Integrated with the responsibility of the soundness of the Design, is the responsibility to meet the reasonable expectations of the Landowner. In other words, the Consulting Engineer must strive to be a simultaneous advocate for both the profession and the Client. This is a fundamentally important principal for Consulting Engineers. An otherwise sound Design which does not meet the reasonable expectations of the Client, does not serve the best interests of the Client. Conversely, a Design that meets the Client's expectations but is not in conformance with Pennsylvania regulations, does not serve the best interests of the profession or the Municipality. The Consulting Engineer must strive for a balance in his/her Design which does both. The Consulting Engineer is required to affix a Pennsylvania Professional Engineering Seal and Signature on the Design,

as a symbol of his/her representation of the soundness of the Design. By sealing and signing the Design, the Consulting Engineer is representing to Pennsylvania citizens that his/her Design is in accordance with Pennsylvania regulations, meets the Standard of Care of the profession and meets Clients expectations, to the best of his/her ability.

The Municipal Engineer's role in the Land Development process is quite different. He/she is responsible for reviewing the Design prepared by the Consulting Engineer (hereinafter referred to as the "Review"), for the purpose of ensuring that the Design is in accordance with Municipal regulations (i.e. ZO, SLDO, SWMO, etc.) While the Municipal Engineer has a duty to understand other Pennsylvania regulations that govern the Land Development process (i.e. PADEP, PADOT, CD, etc.), the responsibility lies within each regulatory agency to ensure that the Design is in accordance with their respective regulations. Like the Consulting Engineer, the Municipal Engineer must strive to be a simultaneous advocate for both the profession and the Municipality. This is a fundamentally important principal for Municipal Engineers. An otherwise sound Design which does not meet the reasonable expectations of the Municipality, does not serve the best interests of the Municipality. Conversely, a Design that meets the Municipality's expectations but is not in conformance with Pennsylvania regulations, does not serve the best interests of the profession or Landowner. The Municipal Engineer must strive for a balance in the Review which does both. A clear distinction between the roles of Municipal Engineers and Consulting Engineers, is that Municipal Engineers are not required to affix a Pennsylvania Professional Engineering Seal and Signature on the Design prepared by the Consulting Engineer. It would be inappropriate for him/her to do so, since the Design is not prepared under his/her responsible charge.

While these roles are different, they are both important. A proper understanding of each Engineer's role is critical to the efficacy of the Land Development process. When a Municipal Engineer and/or Consulting Engineer do not have a proper understanding of their respective roles in the Land Development process, a myriad of problems can occur. Not the least of which can be an erosion of the public trust for the Professional Engineering License, which is paramount to our profession and standing in Pennsylvania. Blurring of the roles and abuses of power by both Municipal Engineers and Consulting Engineers have a damaging affect not only on Municipalities and Landowners we serve, but also on the public's view of the Professional Engineering profession. In recent times, there have been too many instances of abuses of power and blurring of roles between Municipal Engineers and Consulting Engineers.

This Code of Conduct is intended as a supplement to the NSPE "**Engineers Creed**" (See Attachment "A") and "**Code of Ethics**" in effect. It is intended as a set of specific fundamental principals on how Municipal Engineers and Consulting Engineers should treat each other during the Land Development process, with the purpose of maintaining Professional respect and fairness. It is firmly believed that each Municipal Engineer and Consulting Engineer, who adopts this Code of Conduct into their daily practice of Engineering, will be preserving the integrity of the Professional Engineering License which he/she has sworn to honor and uphold, while also serving the reasonable interests of the Municipalities and Landowners in the Land Development process.

As a **Municipal Engineer**, I pledge:

1. to respect the rights of the Landowner.
2. to treat the Consulting Engineer with respect and professional courtesies befitting fellow Professional Engineers.
3. to be in Responsible Charge of the Reviews.
4. to understand and have a working knowledge of relevant Municipal Ordinances and outside regulatory agency regulations.
5. to do my utmost to understand the basis of the Design prepared by the Consulting Engineer and the underlying site specific constraints.
6. to contact the Consulting Engineer if I have questions about the basis of the Design and the underlying site specific constraints, prior to issuing my Review.
7. to make myself reasonably available for communications, correspondence and meetings with the Consulting Engineer in preparation of the Design and during the review process.
8. to limit my Review to the relevant Municipal Ordinances in effect. I will relegate to outside Regulatory Agencies the review role for their regulations (i.e. PADEP, PADOT, CD's, etc.)
9. to limit my Review to my area of expertise. I will relegate to other retained Municipal Consultants the review role for their area of expertise, (i.e. Landscape Architecture, Land Planning, Traffic, Geotechnical, etc.)
10. to issue Reviews in a timely fashion, in order to allow the Landowner to reasonably progress through the Land Development process as prescribed in the MPC and Municipal Ordinances.
11. to clearly distinguish between Ordinance and Preference Comments, in my Reviews. For Preference Comments, I will strive to work closely with both the Municipality and the Consulting Engineer to achieve fair compromises satisfactory to both the Municipality and Landowner ("Preference Comments" are those comments not specifically based on the Municipal Ordinances, but are desired by the Municipality and/or Municipal Engineer and can range from a simple preference by the Municipal Engineer for a type of stormsewer pipe material up to a more complex preference by the Municipality for a certain type of land plan and frontage improvements).
12. to identify comments, as comprehensively as possible, in the initial Review. If in subsequent Reviews I identify a new comment, particularly a new comment that will significantly impact the Design, I will contact the Consulting Engineer to discuss the reason for the new comment.
13. to consider and provide an opinion to the Municipality on any relief from the Municipal Ordinances requested by the Landowner. Prior to providing an opinion on any relief requested, I will strive to fully understand the hardships identified by the Consulting Engineer and will fairly evaluate the request with the Municipality.
14. to assign only qualified staff and in numbers commensurate with the size and complexity of the project.
15. to diligently manage time and resources expended in performing Reviews, such that billing passed onto the Landowner is fair and commensurate with the size and complexity of the project.

As a **Consulting Engineer**, I pledge:

1. to respect the reasonable interests of the Municipality.
2. to treat the Municipal Engineer with respect and professional courtesies befitting fellow Professional Engineers.
3. to strive to prepare a sound Design within the Standard of Care of the profession.
4. to review and have a working knowledge of relevant Municipal Ordinances and outside regulatory agency regulations.
5. to do my utmost to prepare my Design in accordance with Municipal Ordinances and outside Regulatory Agency regulations.
6. to contact the Municipal Engineer if I have questions about the Municipal Ordinances and outside Regulatory Agency regulations as they relate to the Landowners desired plan, prior to submitting my Design.
7. to initiate communications, correspondence and meetings with the Municipal Engineer in preparation of the Design and during the review process.
8. to act as a liaison between the Municipal Engineer and outside Regulatory Agencies (i.e. PADEP, PADOT, CD's, etc.), for the purpose of fostering a cooperative Review of my Design.
9. to act as a liaison between the Municipal Engineer and other Municipal Consultants (i.e. Landscape Architecture, Land Planning, Traffic, Geotechnical, etc.), for the purpose of fostering a cooperative Review of my Design.
10. to issue administratively complete Designs, in order to allow the Municipal Engineer to efficiently perform his/her Review during the Land Development process as prescribed in the MPC and Municipal Ordinances.
11. to do my utmost to understand the basis of the Ordinance and Preference Comments, in the Reviews prepared by Municipal Engineers. For Preference Comments, I will strive to work closely with both the Municipality and the Municipal Engineer to achieve fair compromises satisfactory to both the Municipality and Landowner.
12. to inform the Landowner about Preference Comments in the Municipal Engineer's Review that are not in accordance with the Municipal Codes and outside agency regulations, whether initiated by the Municipality or Municipal Engineer.
13. to address Municipal Engineer comments in the initial Review, as comprehensively as possible, in the 1<sup>st</sup> revision of the Design. If in subsequent Reviews the Municipal Engineer identifies a new comment, particularly a new comment that will significantly impact the Design, I will contact the Municipal Engineer to discuss the reason for the new comment.
14. to strive to convince the Landowner to only request relief from the Municipal Ordinances where hardships truly exist. Prior to requesting any relief, I will strive to clearly justify to the Municipal Engineer the hardships identified, so that he/she may understand the basis for the relief and be able to properly analyze and evaluate the relief with the Municipality.
15. to assign only qualified staff and in numbers commensurate with the size and complexity of the Design.
16. to be in Responsible Charge of the Design, to properly manage all staff associated with the design and to perform necessary Quality Control and Quality Assurance, prior to signing, sealing and submitting the Design to the Municipality.

I, \_\_\_\_\_ (Signature), hereby affirm my commitment to this Code of Conduct.

Print Name: \_\_\_\_\_

PE License No.: \_\_\_\_\_

Date: \_\_\_\_\_