

## *ARTICLE 7*

### *ADMINISTRATION AND ENFORCEMENT*

#### **Section 701: Statement of Intent**

- (A) Article 7 of this Ordinance provides the procedural requirements and general provisions for amendments, records, preventive remedies and enforcement powers that may be utilized by Upper Bern Township.
- (B) The provisions established under Article 7 shall be subject to the interpretation of the Upper Bern Township Board of Supervisors, Planning Commission, Engineer, Planning Consultant and Solicitor. Should a dispute arise concerning the interpretation of these regulations, the person aggrieved by the interpretation may file an appeal with the Board of Supervisors. In all cases, the burden of proof and submission of technical evidence shall be the responsibility of the applicant or person appealing the interpretation of the Upper Bern Township Board of Supervisors, Planning Commission, Engineer, Planning Consultant and Solicitor.
- (C) Where the provisions of this Ordinance conflict with the specific provisions of the Pennsylvania Municipalities Planning Code, the specific provisions of the Pennsylvania Municipalities Planning Code shall be complied with unless otherwise directed by the Board of Supervisors.

#### **Section 702: Amendments**

- (A) Before voting on the enactment of a proposed amendment to this Ordinance, the Board of Supervisors shall hold a public hearing pursuant to public notice. The amendment or a summary setting forth the principal provision of the amendment shall be published once each week for two (2) successive weeks in a newspaper of general circulation in Upper Bern Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) and the second publication shall not be less than seven (7) days from the date of the hearing. The notice shall include a reference to the place within Upper Bern Township where copies of the proposed amendment may be secured or examined.
- (B) In case of an amendment other than that prepared by the Upper Bern Township Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission for recommendation at least thirty (30) days prior to the date fixed for the public hearing on such proposed amendment.
- (C) The recommendation of the Upper Bern Township Planning Commission shall be made in writing to the Board of Supervisors within thirty (30) days. The recommendation shall include a specific statement as to whether or not the proposed amendment is in accordance with the objectives of the Joint Comprehensive Plan for Northern Berks County.
- (D) At least thirty (30) days prior to the hearing on the proposed amendment, the Board of Supervisors shall submit the proposed amendment to the Berks County Planning Commission. The recommendation of the Berks County Planning Commission shall be made to the Board of Supervisors within thirty (30) days and the proposed action shall not be taken until such recommendation is made. If, however, the Berks County Planning Commission fails to act within thirty (30) days, the Board of Supervisors shall proceed without its recommendation.
- (E) Before voting on the enactment of a proposed amendment to this Ordinance, the Board of Supervisors shall publish the proposed amendment once in one (1) newspaper of general circulation in Upper Bern Township not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text or the title and a brief summary, prepared by Upper Bern Township Solicitor or Secretary, setting forth all the provisions in reasonable detail.
- (F) In the event substantial amendments are made to the proposed amendment before voting on enactment, the Board of Supervisors shall, at least ten (10) days prior to enactment, advertise in one (1) newspaper of general circulation in Upper Bern Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

**Section 703: Records**

- (A) The Upper Bern Township Planning Commission and the Board of Supervisors shall keep a record of their findings, decisions, and recommendations relative to all subdivision and land development plans filed for review and action.
- (B) Upon written request to the Upper Bern Township Engineer, Planning Consultant, Solicitor and/or Secretary, such records shall be made available to the public for review at the Upper Bern Township Municipal Building.

**Section 704: Preventive Remedies**

- (A) In addition to other remedies, Upper Bern Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies provided.
- (B) Upper Bern Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Ordinance.

**Section 705: Appeals**

- (A) All appeals concerning the review, application, interpretation and decisions authorized by this Ordinance shall be in accordance with in accordance with the appropriate provisions that are established by Upper Bern Township and the Pennsylvania Municipalities Planning Code.
- (B) All appeals concerning an alleged error in the processing or enactment of any components of this Ordinance shall raised by appeal taken directly from the action of the Board of Supervisors to the appropriate court, which shall not be filed later than thirty (30) days from the effective date of this Ordinance.

**Section 706: Enforcement**

- (A) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable in a civil enforcement proceeding commenced by Upper Bern Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Upper Bern Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determines otherwise as prescribed by the Pennsylvania Municipalities Planning Code.
- (B) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- (C) Nothing contained in this Ordinance shall be construed or interpreted to grant to any person or entity other than Upper Bern Township the right to commence any action for enforcement pursuant to this Ordinance.