

ORDINANCE No. 27

AN ORDINANCE FOR THE TOWNSHIP OF UPPER BERN
AMENDING ORDINANCE No. 18-1979 and No. 21-1984
TO PROVIDE FOR VARIANCES FOR NEW CONSTRUCTION AND
DEVELOPMENT ACTIVITIES AND TO COMPLY WITH THE
REQUIREMENTS OF THE PENNSYLVANIA FLOOD PLAN
MANAGEMENT ACT (ACT 166 of 1978)

BE IT ENACTED and ORDAINED by the Board of Supervisors of the Township of Upper Bern, Berks County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the same as follows:

SECTION 1. That Section 6.01 D of Ordinance No. 18-1979 and No. 21-1984 as amended shall be amended as follows:

Section 6.01 D - Special Permit Application Procedures

D. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
3. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development";
4. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control;
5. any other applicable permits such as, but not limited to, a permit for an activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-166; and
6. any evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

SECTION 2. That Section 6.02 of said Ordinance shall be amended as follows:

Section 6.02 - Review of Application for Special Permit

Upon receipt of an application for a Special Permit by the Township, the following procedures shall apply in addition to those of Article II:

A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.

B. If an application is received that is incomplete, the Township shall notify the applicant in writing, stating in what respects the application is deficient.

C. If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.

E. Before issuing the Special Permit, the Township shall allow the Department of Community Affairs thirty (30) days after receipt of the notification by the Department, to review the application and decision made by the Township.

F. If the Township does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.

G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Township and the applicant, in writing, of the reasons for the disapproval, and the Township shall not issue the Special Permit.

SECTION 3. That Article VII - Variances, first paragraph, which read as follows:

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township may, upon request, grant relief from the strict application of the requirements. If compliance with the elevation of floodproofing requirements of this Ordinance would result in an exceptional hardship for a prospective builder, developer, and landowner, the Township, may, upon request, grant relief from the strict application of the requirement.

Shall be amended, and as so amended shall read as follows:

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township, may, upon request, grant relief from the strict application of the requirements.

SECTION 4. That Article VII - Variances, of said Ordinance shall be further amended by adding Paragraph 6 which shall read as follows:

Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit or to Development Which May Endanger Human Life.

SECTION 5. That said Ordinance shall be further modified by adding Article IX which shall read as follows:

Article IX, Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises, shall be subject to the provisions of this section, in addition to all other applicable provisions:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium Carbide
5. Carbon Disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and Oxides of nitrogen
12. Petroleum products (gasoline, fuel, oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products

17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

Where permitted within any identified flood plain area, any new or substantially improved structure or the kind described in Subsection A, above, shall be:

1. elevated or designated and constructed to remain completely dry up to at least one and one-half feet above the one hundred (100) year flood plain;
2. designated to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designated and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corp. of Engineers, June, 1972), or with some other equivalent water-tight standard.

SECTION 6. That all Articles and Sections of Ordinance No. 18-1979 and No. 21-1984 as hereby amended shall remain in full force and effect.

SECTION 7. That any ordinance or part of an ordinance inconsistent with any Section of this Ordinance is hereby repealed to the extent that the same is inconsistent with the terms herein set forth.

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF UPPER BERN

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Attest:

Helene A. Lockey
Secretary