

ARTICLE 12

ENFORCEMENT, AMENDMENTS, REMEDIES, SEVERABILITY AND REPEALER

Section 1201. ADMINISTRATION AND ENFORCEMENT

- A. The Board of Commissioners and Planning Commission shall have the duty and authority for the administration and general enforcement of the provisions of this Ordinance, as specified or implied herein.

Officials of the Township having regulatory duties and authority connected with or appurtenant to the subdivision, use, or development of land shall have the duty and authority for the controlling enforcement of the provisions of this Ordinance, as specified or implied herein or in other Ordinances of the Township.

- B. Permits required by the Township for the erection or alteration of buildings, the installation of sewers or sewage disposal systems, or for other appurtenant improvements to or use of the land, shall not be issued by any municipal official responsible for such issuance until it has been ascertained that the site for such building, alteration, improvement, or use is contained in a land development plan approved and publicly recorded in accordance with the provisions of this and other applicable Township Codes and Ordinances.
- C. The Township Sewage Enforcement Officer shall require that the Sewage Module and applications for sewage disposal system permits contain all the information necessary to ascertain that the sites for the proposed systems are acceptable in accordance with the provisions of this Ordinance, the "Rules and Regulations of the Department of Environmental Protection", and Township Regulations.
- D. The approval of a land development plan or of any improvement installed, or the granting of a permit for the erection or use of a building or land therein, shall not constitute a representation, guarantee, or warranty of any kind or nature by the municipality or any official, employee, or appointee thereof, of the safety of any land, improvement, property or use from any cause whatsoever, and shall create no liability upon, or a cause of action against the municipality or such official, employee or appointee for any damage that may result pursuant thereto.

Section 1202. AMENDMENTS

Amendments to this Ordinance shall become effective only after a public hearing held pursuant to public notice as defined, and in accordance with the "Pennsylvania Municipalities Planning Code", Act 247, as amended.

- A. From the time an application for approval of a plan, whether minor, preliminary or final, is duly filed as provided in this Ordinance, and while such application is pending approval or disapproval, no change or amendment of this Ordinance, zoning or other governing ordinance or plan shall affect the decision on such application adversely to the Applicant, and the Applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed.

The Applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulation.

- B. When an application for approval of a plan, whether minor, preliminary or final, has been approved without conditions or approved with the applicant's acceptance of conditions, no subsequent change or amendment in this Ordinance, zoning or other governing ordinance or plan shall be applied to affect adversely the right of the Applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval.
- C. Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of this Ordinance or the governing ordinance or plans as they stood at the time when the application for such approval was duly filed.
- D. Where the Applicant has substantially completed the required improvements as depicted on the final plan within the aforesaid five-year limit, or any extension thereof as may be granted by the Board of Commissioners, no change of any ordinance or plan enacted subsequent to the date of filing of the preliminary plan shall modify or revoke any aspect of the approved final plan pertaining to zoning classification or density, lot, building, street or utility location.
- E. In case of a preliminary plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the Applicant with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by the Applicant on or before the anniversary of the preliminary plan approval, until final plan approval of the final section has been granted, and any modification in the aforesaid schedule shall be subject to approval of the Board of Commissioners at its discretion.
- F. Provided the Applicant has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with Applicant's aforesaid schedule of submission of final plans for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plan within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period, the aforesaid protections shall apply for an additional term or terms of three years from the date of final plan approval for each section.
- G. Failure of the Applicant to adhere to the aforesaid schedule of submission of final plans for the various sections shall subject any such section to any and all changes in this ordinance, zoning, and other governing ordinance enacted by the Township subsequent to the date of the initial preliminary plan submission.

Section 1203. REMEDIES AND JURISDICTION

A. Preventive Remedies

1. In addition to other remedies, the 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 herein provided.
2. The 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. This authority to deny such a permit or approval shall apply to any of the following applicants:
 - a. The owner of record at the time of such violation.
 - b. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
 - c. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
 - d. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
3. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

B. Enforcement Remedies

1. Any person, partnership, or corporation who or which has violated the provisions of this land development ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgement of not more than five hundred (\$500.00) dollars plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgement 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, the 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

determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.

2. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.

Section 1204. SEVERABILITY

If any section, clause, provision, or portion of these regulations shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not effect any other section, clause, provision or portion of these regulations. It is hereby declared to be the intent of East Pennsboro Township that this Ordinance would have been adopted if such invalid or unconstitutional section, clause, provision or portion had not been included herein.

Section 1205. REPEALER

- A. Any Ordinance or part thereof inconsistent herewith is hereby repealed to the extent of such inconsistency.
- B. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or legal proceeding now pending in any court, or any rights accrued or liability incurred, or any cause of action nor shall any right or remedy of any character be lost, impaired or affected.
- C. Any previously existing (Subdivision and) Land Development Ordinance, as amended, is hereby repealed.

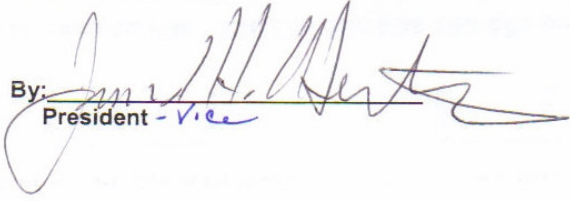
Section 1206. CODIFICATION STATEMENT

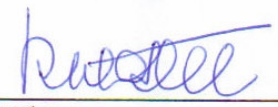
It is the intention of the Township Board of Commissioners and it is ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of East Pennsboro Township, Cumberland County, Pennsylvania and the sections of this Ordinance may be renumbered to accomplish that intention.

Section 1207. ENACTMENT

Enacted and ordained into an Ordinance this 5 day of July, 2007

BOARD OF COMMISSIONERS
EAST PENNSBORO TOWNSHIP

By: 
President - Vice

ATTEST: 
Secretary