

**TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO.: 166 of 2025

**AN ORDINANCE OF UPPER BERN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA, WHICH IS INTENDED TO AMEND
THE UPPER BERN TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT
ORDINANCE OF 2008, BY AMENDING CERTAIN PROVISIONS RELATING TO
RIPARIAN BUFFERS.**

WHEREAS, Upper Bern Township has duly-adopted and does maintain a Subdivision and Land Development Ordinance titled the “Upper Bern Township Subdivision and Land Development Ordinance of 2008” (the “Ordinance”); and

WHEREAS, Section 505 of the Pennsylvania Municipalities Planning Code (“MPC”) authorizes municipalities to amend their subdivision and land development ordinances; and

WHEREAS, the Board of Supervisors believes it is in the best interest of Upper Bern Township to further regulate riparian buffers by modifying or establishing specific standards; and

WHEREAS, the Board of Supervisors has considered the comments of the Berks County Planning Commission, the Upper Bern Township Planning Commission, and the general public after a public hearing duly conducted in accordance with the provisions of the MPC and the Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, that the Board of Supervisors of Upper Bern Township does hereby approve and adopt the following amendments to the Ordinance, as follows:

Section 1: The following provisions shall be added as Section 513 (G) (Riparian Buffers – Establishment Requirements and Financial Security (Improvement Guarantee) of the Ordinance:

(G) It shall be recognized that the establishment of a riparian buffer (planting native species and removal of invasive species) requires up to five (5) years of more intense work than other aspects of land development. Section 602 of this Ordinance, in accordance with the PA Municipal Planning Code (MPC), already establishes the requirement to provide adequate improvement guarantee to cover the costs of required improvements (including riparian buffer requirements). This Section is intended to supplement said guarantee, to recognize the industry standards regarding the time to establish a riparian buffer (construction phase time). Therefore, for any properties located along or adjacent to a perennial stream corridor, which are subject to the land development provisions of this

Ordinance, shall be subject to the following specific financial security requirements as it relates to the establishment of the riparian buffer zones:

- (1) The initial financial security to be posted with the Township as required by this Ordinance shall consider the full and successful establishment of the riparian buffer zones as is shown on the approved plans. This consideration shall include up to a five (5) year time frame for establishing the Riparian Buffer plantings and removal of the invasive species.
- (2) A full release of the financial security associated with the Riparian Buffer work shall not be considered by the Board until (i) the up to five-year period (construction/implementation phase) has expired; or (ii) it has been determined by the Township that the Riparian Buffer has been successfully established and is ready for the maintenance phase.
- (3) A prominent note for signature by the developer/owner shall be placed on the plans to clearly denote these specific requirements, obligating the developer to acknowledge and agree to these requirements and terms, which terms shall also be incorporated into the development agreement.
- (4) After the construction phase discussed above, the riparian buffer still requires continued (but less intense) work, but this work is considered maintenance activities. This maintenance work shall continue but shall be undertaken as ongoing and perpetual maintenance activities associated with the riparian buffer.

Section 2: Severability. Should any section or provision of this amendment be declared illegal, invalid, or unconstitutional by any court or competent jurisdiction, such decision or declaration shall not affect the validity or enforcement of the Upper Bern Township Subdivision and Land Development Ordinance.

Section 3: Repealer. All Ordinances or Resolutions, or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, shall be in the same or hereby repealed.

Section 4: Validity. If any Section or part of a Section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or Sections of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been enacted as if such invalid Section or portion thereof had not been included therein.

Section 5: Effective Date. This Ordinance shall become effective upon adoption.

ORDAINED AND ENACTED this 8 day of May, 2025, by a vote of
2 Yes / 0 No / 0 Abstained / 1 Absent.

Attest:


Secretary

UPPER BERN TOWNSHIP BOARD OF
SUPERVISORS

By: _____
Gloria Grim, Chairman

By:  _____
Mike Fisher, Vice Chairman

By:  _____
Arthur Lambert, Supervisor

