

**UPPER YODER TOWNSHIP  
CAMBRIA COUNTY  
PENNSYLVANIA**

**ORDINANCE NO. 219**

AN ORDINANCE AMENDING THE UPPER YODER TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF APRIL 4, 1974, BY CHANGING AND ADDING CERTAIN DEFINITIONS; ADDING SECTIONS TO SUBDIVISION CONTROL; REVISING AND ADDING SECTIONS TO THE PROCEDURE FOR APPROVAL AND ACCEPTANCE OF A SUBDIVISION; REVISING SECTIONS TO IMPROVEMENTS REQUIREMENTS; REVISING SECTIONS TO FINAL PLAT; REVISING SECTIONS TO ASSUARNANCE OF IMPROVEMENTS; REVISING AND RENAMING ARTICLE XIV – AMENDMENT PROCEDURES; AND REVISING PENALTIES AND ENFORCEMENT.

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## **AMENDMENT LISTINGS**

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Upper Yoder, County of Cambria and State of Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that the Upper Yoder Township Subdivision and Land Development Ordinance of 1974, adopted and enacted and April 4, 1974, and subsequently amended, shall be consolidated and amended as follows:

### **ARTICLE I – Purposes**

The purpose of this Ordinance is to assure sites suitable for building purposes and human habitation and to provide for the harmonious and healthful development of the Township of Upper Yoder, for coordination of existing streets with proposed streets, for insuring adequate open space for traffic, recreation, light and air, and for proper distribution of population, thereby creating conditions favorable to the health, safety, morals and general welfare of the citizens of the Township. The further purpose of this Ordinance is to provide uniform and equitable land subdivision regulations, procedures and standards for observance by land developers, land users, the Township Planning Commission and the Board of Supervisors of the Township.

## **ARTICLE II – Short Title**

This Ordinance shall be known and may be cited as the “Upper Yoder Township Subdivision and Land Development Ordinance”.

## **ARTICLE III – Definitions**

Unless otherwise expressly stated, the following terms shall for the purposes of this Ordinance have the meaning indicated. Words in the singular include the plural and words in the plural include the singular.

1. **“Alley”** – A permanent service way providing secondary means of access to abutting lands.
2. **“Block”** – Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets and railroad rights-of-way, waterways, unsubdivided areas or other definite barriers.
3. **“Board”** – The duly constituted Board of Supervisors of the Township.
4. **“Building”** – Any structure, or part thereof, affixed to the land.
5. **“Building Set-Back Line”** – The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line.
6. **“Commission”** – The duly created and existing Planning Commission of the Township
7. **“County Planning Commission”** – The Cambria County Planning Commission, Courthouse Annex, Ebensburg, Pennsylvania 15931.
8. **“Cross Walk”** – A right-of-way, municipally owned, which cuts across a block to furnish access for pedestrians to adjacent streets or properties.
9. **“Cul De Sac”** (court or dead end street) – A short street having one end open to traffic and being permanently terminated by vehicle turn-around.

10. **“Developer”** – A person undertaking the development of land use by subdivision thereof under the terms of this Ordinance. This term shall also include words “subdivider”, “owner”, “builder” and “applicant”.

11. **“Easement”** – A grant by the property owner to the use of a strip of land by the public , a corporation, or persons for specified purposes.

12. **“Engineer”** – A Pennsylvania Registered Professional Engineer or Surveyor duly qualified and licensed by the Commonwealth of Pennsylvania to practice in the field of Engineering or Surveying.

13. **“Health Officer”** – The official representative of the State Health Department or the Department of Environmental Resources.

14. **“Land Development”** – Any of the following activities.

(a) The improvement of one lot or two or more contiguous lots, tracts or parcels or land for any purpose involving:

(i) A group of two or more residential or non-residential buildings, whether proposes initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

(ii) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(b) A subdivision of land.

(c) Certain land development may be excluded from this definition only when such land development involves:

(i) The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

(ii) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or

(iii) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or

rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by property authorities.

15. “**Lot**” – A portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or for development. In determining the size of a lot, no part of a right-of-way, street, crosswalk or easement may be included.

16. “**Lot Depth**” – The mean horizontal distance between the front and rear lines of a lot.

17. “**Lot Double Frontage**” – A lot, the generally opposite ends of which both abut on streets.

18. “**Lot Width**” – The mean horizontal distance between side property lines of a lot.

19. “**Master Plan**” – The comprehensive plan of the Township, which may consist of a map, several maps, map data or other document as adopted by the Township Supervisors indicating the general plan of present and future land use, general location recommended for major and minor traffic ways, public building sites, parks and recreation areas, public utility rights-of-way and regulatory controls and capital improvement programs.

20. “**Municipality**” – Upper Yoder Township, Cambria County, Pennsylvania.

21. “**Off Site Improvements**” – Any improvements or facilities, whether street, sewer or drainage construction, which are located outside of the subdivision and which are deemed necessary by the Commission to be constructed to provide service for the subdivision or to relieve facilities overburdened by the development of the subdivision.

22. “**Person**” – Includes a corporation, unincorporated association and partnership, as well as an individual.

23. “**Plat**” – A map, plan or chart indicating the subdivisions or redivision of land, intended to be filed for record.

24. “**Plat, as Built**” – A plan showing all public improvements as actually constructed with street centerline and profile, sanitary and storm sewer drainage locations, wye locations, sewer profiles, elevation and depth of manholes and storm inlets and such other information as the Township Engineer shall require.

25. “**Plat, Final**” – A complete and exact subdivision plan, prepared for official recording to define property rights and proposed streets and other improvements.

26. "Plat, Preliminary" – A tentative plan prepared by a registered engineer or surveyor showing existing features of the land and proposed street, utility and lot layout within the adjacent to the subdivision.

27. "Right-of-Way" – Land dedicated and publicly owned for use as a street, alley or crosswalk.

28. "Sanitary Sewer Plan" – A complete sanitary sewer plan of the subdivision, including profiles and reports suitable for submission to the State Department of Environmental Resources for the construction of sanitary sewers in the watershed in which the subdivision is located. This plan shall be prepared and certified by a registered engineer.

29. "Sewage Disposal Plan" – A plan prepared and certified by a Registered Engineer providing reports, specifications and working drawings for installation of a septic or other system of sewage disposal for an individual property or building in a subdivision or design for construction for a sewage disposal system for use by two or more lots in a subdivision or for use of an area or community whether in a subdivision plan or otherwise situated.

30. "Storm Sewer Plan" – A complete drainage plan of a subdivision including all necessary storm sewers and appurtenances, the design of which is based upon the NBS-BMS-66 formula of computing runoff and showing the method and point of disposal of all storm water collected. This plan shall be prepared and certified by a Registered Engineer.

31. "Street" – Any, road, highway, lane or other way designed for vehicular traffic, whether or not the same is a private street or a dedicated street, classified as follows:

(a) "Major streets or highways" are those designed for heavy or fast inter-community traffic, including all four-lane highways within the Township.

(b) "Collector streets" are those which serve to collect

and distribute volumes of traffic from local residential streets to major streets. They are designed to carry the intermediate volumes of community traffic.

(c) "Local streets" are those which are used for access to the abutting properties and which will carry limited volumes of traffic. These streets are designed to discourage through traffic.

(d) "Marginal access streets" are those which run parallel to and ultimately connect to major streets or highways and are applicable only where the subdivision is adjacent to a major street or highway. The purpose of the marginal access street is to control the flow of traffic to and from the major street or highway.

32. "Street Name Sign" – A standard Township street sign designating the name of the street to be erected at all street intersections within or at the entrance of a subdivision.

33. "Subdivision" – The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purposes, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels or more than ten acres, not involving any new street or easement or access or any residential dwelling, shall be exempted.

34. "Water Supply or Distribution System Plan" – A complete plan of all water collection, storage, pumping, tie-in, distribution and piping facilities. This plan must be made and certified by a Registered Engineer.

#### **ARTICLE IV – Subdivision Control**

SECTION 1. No subdivision of any lot, tract or parcel of land shall be made, and no street, sanitary sewer, storm sewer or other facilities in connection therewith shall be laid out, constructed opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of this Ordinance.

SECTION 2. No lot in a subdivision may be sold and no permit to erect, alter or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless and until a final plan of such subdivision shall have been approved and properly recorded, and until the requirements required by the Board of Supervisors in connection therewith shall have been constructed or guaranteed as hereinafter provided in this Ordinance.

SECTION 3. It shall be unlawful to record any plan of any proposed subdivision in the Township unless the said plan shall bear thereon the approval of the Board of Supervisors.

SECTION 4. If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision or development,

applicants shall present evidence to the municipality or planning agency, as the case may be, that the subdivision or development is to be supplied by a certified public utility, a bona fide cooperative association of lots owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.

SECTION 5. Land which is subject to flooding, subsidence or underground fires either shall be made safe for the purpose of which such land is proposed to be used, or that such land shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing menace.

## **ARTICLE V- Procedure for Approval and Acceptance of a Subdivision**

SECTION 1. Any owner of land within the Township seeking approval to subdivide land shall submit to the Board of Supervisors for approval a preliminary plan, drawn in accordance with the regulations herein prescribed in triplicate, together with three (3) copies of the application.

SECTION 2. After the filing of said application is recorded in the minutes of the Board, the Board shall refer the application, preliminary plan and accompanying documents to the Commission and County Planning Commission for recommendation at their next regular meetings. The Township shall keep one (1) copy of the application, plans and documents for the Township's file.

SECTION 3. Both Planning Commissions shall review the submitted plan for conformity to their appropriate regulations and then provide the Board with their written recommendations and comments within thirty (30) days after the date the Plan was sent to each Planning Commission. In the event either or both of the Commissions do not make any recommendations within said thirty (30) day period, they shall be deemed to have recommended that the Board consent to the Plan as submitted.

SECTION 4. In the event the Board, after receiving the review and comments of the Commission, disapproves such preliminary plat, the reasons therefore shall be set forth in writing and given to the applicant. In the event the applicant modifies his preliminary plat in accordance with the reasons set forth by the Board and resubmits the plat to the Board, the modified preliminary plat shall therewith be approved by the Board.



SECTION 5. In the event the Board approves such preliminary plat, the applicant shall within six months after such approval, submit a final plat which conforms to the preliminary plat as approved by the Board; otherwise, the preliminary plat approval shall be considered void. The applicant shall submit three (3) copies of the completed final plat, together with other supporting data. The Board shall submit such final plat to both Planning Commissions for their recommendation; but in any case the Board shall act to approve or disapprove the submitted final plat within forty (40) days from the receipt thereof. In the event of its disapproval of the final plat, the Board shall set forth its reasons for disapproval in writing and give a copy thereof to the applicant.

(1) The decision of the municipality shall be in writing and

shall be communicated to the applicant personally or mailed to him at his last know address not later than fifteen (15) days following the decision.

(2) When the application is not approved in terms as filed, the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon.

(3) Failure of the municipality to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.

(4) Change in the ordinance shall affect plats as follows:

(i) From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision 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. In addition, when a preliminary application has been duly approved, 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, and subsequent application shall be subject to the intervening change in governing regulations.

(ii) When an application for approval of a plat, whether preliminary or final, has been approved without conditions or approved by the applicant's acceptance of conditions, no

subsequent change or amendment in the zoning, subdivision 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 years from such approval.

(iii) 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 the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

(iv) Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

(v) In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat 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 plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion.

(vi) Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plat, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with land owner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five (5) 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 (3) years from the date of final plat approval for each section.

(vii) Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning,

subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

(5) Before acting on any subdivision plat, the municipality or the municipal planning commission, as the case may be, may hold a public hearing thereon after public notice.

(6) No plat which will require access to a highway under the jurisdiction of the Department of Transportation shall be finally approved unless the plat contains a notice that a highway occupancy permit is required pursuant to section 420 of the act of June 1, 1945(P.L. 1242, No. 428), known as the "State Highway Law", before driveway access to a State highway is permitted. The Department shall, within sixty (60) days of the date of receipt of an application for a highway occupancy permit; (i) approve the permit, which shall be valid thereafter unless, prior to commencement of construction there under, the geographic, physical or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations, (ii) deny the permit, (iii) return the application for additional information or correction to conform with Department regulations or (iv) determine that no permit is required in which case the Department shall notify the municipality and the applicant in writing. If the Department shall fail to take any action within the 60-day period, the permit will be deemed to be issued. The plat shall be only as authorized by a highway occupancy permit. Neither the Department nor any municipality to which permit-issuing authority has been delegated under Section 420 of the "State Highway Law" shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit, or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested arising out of the issuance or denial of a driveway permit by the Department.

(7) The municipality may offer a mediation option as an aid in completing proceedings authorized by this section. In exercising such an option, the municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Section 8 of this Article.

SECTION 6. Within thirty (30) days after approval of the final plat by the Board of Supervisors, the applicant shall duly record the plan with the Recorder of Deeds of Cambria County, or the approval of the Board of Supervisors shall cease to be valid, unless the Board agrees to grant an extension for good cause shown.

SECTION 7. The owner of a tract shall be required to plan hi entire tract in submitting a preliminary plot, unless the owner obtains a determination by the Board of Supervisors, following a recommendation thereupon by the Planning Commission, that the planning of a portion of a tract owned by the owner is not topographically feasible,

and that the planning of such portion of a tract would not subvert the general purposes of this Ordinance.

SECTION 8. Mediation Option:

(a) Parties to proceedings authorized in this article may utilize mediation as an aid in completing such proceedings. Mediation shall supplement, not replace, those procedures in this article once they have been formally initiated. Nothing in this section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

(b) Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator when appropriate, shall develop terms and conditions for:

(i) Funding mediation.

(ii) Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.

(iii) Completing mediation, including time limits for such completion.

(iv) Suspending time limits otherwise authorized in this act, provided there is written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.

(v) Identifying all parties and affording them the opportunity to participate.

(vi) Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.

(vii) Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in the other sections of this ordinance.

(c) No offers or statements made in the mediation sessions, excluding the final written mediated agreements, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

## **ARTICLE VI – Advisory Meeting**

In order to expedite the processing of such subdivision plat and to avoid unnecessary expense, the Subdivider is encouraged to arrange a discussion meeting with the Planning Commission before taking any action in developing plans for the area to be subdivided. In this way, both the Subdivider and the Planning Commission can be made aware of the problems and objectives involved before any investment of time and money has begun.

## **ARTICLE VII – Effect of Approval and Recording of a Subdivision Plan**

The recording of the final plat shall have the effect of an offer of dedication of all streets and other public areas shown on said plat to the Township of Upper Yoder, unless the owner notes on said plat or plan that such streets, parks and other public improvements have not been offered for dedication to the Township by formal notation thereon on the plan; provided, however, that neither the approval of the final plat by the Board of Supervisors nor the act of recording the plat shall impose any duty upon the Township to maintain or improve any such dedicated street or area until the Board of Supervisors shall have made actual acceptance of said dedication by ordinance or resolution.

## **ARTICLE VIII – Design Standards**

The arrangement, character, extent, width, grade and location of all streets, lots and blocks shall conform to the following design standards:

### SECTION 1. Land Requirements:

Land shall be suited to the purpose for which it is to be subdivided.

SECTION 2. Streets:

- (a) Local streets shall be so laid out as to discourage through traffic, but provisions for street connections into and from adjacent areas will generally be required.
  
- (b) Half streets shall be prohibited except to complete an existing half street in an adjacent tract.
  
- (c) Dead-end streets are permitted as temporary stubs for future street extensions into adjoining tracts, or when designed as cul-de-sacs, where the length does not exceed 600 feet and where a turnaround with a right-of-way of 100 feet is provided.
  
- (d) Where Marginal Access Streets are planned, there shall be no vehicular access permitted from individual lots onto existing or new major streets or highways.

SECTION 3. Street Specifications – Width:

<u>(a) Type</u>	<u>Right of Way</u>	<u>Paving Width</u>
Major Department	80 feet	Specification of State Highway
Collector and marginal Access	60 feet	34 feet
Local	40 feet	18 feet

(b) Maximum Allowable Grades;

<u>Type</u>	<u>Per Cent</u>
Major	5 per cent
Collector and Marginal Access	7 per cent
Local	10 per cent

(c) Minimum grades on all streets shall not be less than 0.75 per cent in order to facilitate adequate surface drainage.

(d) Vertical curves – All changes in grade for collector and local streets should be corrected by a vertical curve of sufficient length to afford an easy transition.

(e) Horizontal curves – Minimum center line radius for horizontal curves:

<u>Type</u>	<u>Length</u>
Major, Collector and Marginal	
Access	300 feet
Local	100 feet

(f) Streets shall be laid out to intersect as nearly as possible at right angles, and no street should intersect any other street at less than 60 degrees. Where streets cross streets, they shall be offset by at least 125 feet between centerlines.

(g) All gutters and intersections shall be rounded by a minimum radius of at least:

<u>Type</u>	<u>Radius</u>
Major, Collector and Marginal	
Access	20 feet
Local	15 feet

(h) Centerline offsets of less than 125 feet shall be avoided.

(i) Reverse curves shall have a minimum transitional distance between them of at least:

<u>Type</u>	<u>Distance</u>
Major, Collector and Marginal	
Access	150 feet
Local	100 feet

(j) When streets are not in alignment, street names should not be used which will duplicate existing streets names.

#### SECTION 4. Lots and Lot Dimensions:

Lot dimensions and areas, and dimensions of front, rear and side yards and building lines shall not be less than specified by the appropriate provisions of the Zoning Ordinance of Upper Yoder Township for the type of district involved.

(a) Where both water supply and sanitary sewer disposal are provided by individual on-lot facilities, residential lots shall have a minimum area of 18,000 square feet per single family dwelling unit and a minimum width, measure at the shortest distance at the building line of one hundred twenty-five (125) feet.

(b) Where either water supply or sanitary sewage disposal, but not both, are provided by individual on-lot facilities, residential lots shall have a minimum area of 16,000 square feet per single family dwelling unit and a minimum width, measured at the shortest distance at the building set back line of one hundred (100) feet.

(c) Where either or both water supply and sanitary sewage disposal are provided by individual on-lot facilities, and experience indicated the necessity therefore, after consultation with the Division of Environmental Hygiene of the State Department of Health, the Commission may require percolation tests, undertaken at the expense of the developer, as may be prescribed by the said Department of Health in accordance with the Health Department Standard Practices to determine the adequacy of the proposed water and sewage facilities in relation to the proposed lot size and existing grade and soil conditions. In all such cases where the tests indicate a larger lot size than allowed in (a) and (b) above to be necessary, the Board may accept the option of a registered



and qualified independent sanitary engineer as to the minimum lot size and/or facilities necessary, to prevent unsanitary conditions and hazards to the public health and therefore may require such larger lot sizes and/or type of facilities in that locality as a prerequisite to final approval of the plan.

(d) In areas where public water and sewage disposal facilities are available, or will be installed in planned subdivisions, the lot width may be reduced to 80 feet and the lot area may be reduced to 12,000 square feet.

(e) Building Lines:

The following setbacks from the street right-of-way line shall be considered as minimum:

Front Yard Setback                      60 feet on lots with septic tanks sloping to front and 40 feet on lots sloping to rear or lots without septic tanks sloping to front.

Front and Street Side

Yard (corner lots)                      40 feet or 60 feet, as described Above

Side Yard Setbacks                      15 feet

(f) In all cases the width of corner lots shall not be less than 120 feet. The lower of hillside lots shall be larger than as required above.

SECTION 5. Blocks:

(a) Block lengths shall not exceed 1600 feet in length or be less than 600 feet.

(b) Blocks should have sufficient width to provide for two tiers of lots or appropriate depth.

(c) Public crosswalk rights-of-way of at least 10 feet in width shall be provided on blocks of 800 feet or larger to facilitate pedestrian access to shopping, schools, playgrounds and other community facilities.

SECTION 6. Utility Easements – Utility easements shall be a Minimum of fifteen (15) feet in width and wherever possible shall be located along side or rear lot lines. If the topography is not suitable or convenient for the location of utility easements along the side or rear lot lines, then sufficient area must be provided in the street right-of-way abutting the lot involved for the placement and repair of utility installations so that such work will not require tearing up the paved portion of the roadway installed in said street right-of-way.

## **ARTICLE IX – Improvement Requirements**

The subdivider shall complete or assure the completion of the following improvements as a prerequisite to the approval of the final plat.

### SECTION 1. Street Grading and Paving:

(a) All streets shall be graded to the grades shown on the street profile and cross-section plan submitted with the approved final plat. Construction and grades shall be approved by the Township Engineer.

(b) A slope of no greater than one and one-half, horizontal, to one, vertical, beyond the right-of-way line where cut or fill is necessary.

(c) Prepare subgrade in accordance with Section 210 of the Pennsylvania Department of Transportation Specifications, Publication 408, dated 1987.

(d) Construct an eight-inch (8") thick compacted aggregate subbase on the prepared subgrade in accordance with Section 250 of the Pennsylvania Department of Transportation Specifications, Publication 408, dated 1987. The aggregate would be PennDot Number 2A, Type C or better.

(e) Construct a four-inch (4") thick bituminous concrete or plain cement concrete base course in accordance with Section 305 or 301 respectively of the Pennsylvania Department of Transportation Specifications, Publication 408, dated 1987.

(f) Construct a one and one-half-inch (1-1/2") thick bituminous wearing course or a bituminous surface course such as AT-1 Modified, all in accordance with Pennsylvania Department of Transportation Specifications.

(g) Shoulders, a minimum of three (3) feet in width, should be constructed on both sides of the street cartway. These shoulders could be constructed with compacted PennDot No. 2A Stone with the surface being sealed and stabilized with bituminous material.

(h) Guide rail shall be installed as required by the criteria set forth by the Pennsylvania Department of Transportation Design Manual, Part 2, Highway Design.

(i) The base course shall be well rolled at least ten (10) times with at least a ten (10) ton roller in accordance with PDH specifications.

## SECTION 2. Storm and Surface Drainage.

(a) Any landowner or any person engaged in the alteration or development of land which may affect storm water runoff characteristics shall implement such measure consistent with the provisions of the applicable county watershed storm water management plan as are reasonably necessary to prevent injury to health, and of person's safety and/or damage to adjacent property. Such measures shall include those actions as are required:

(i) to assure that the maximum rate of storm water runoff is not greater after development than prior to development activities; or

(ii) to manage the quantity, velocity, and direction of resulting storm water runoff in a manner which otherwise adequately protects health and property from possible injury.

(b) The following General Criteria shall be followed:

(1) The subdivision storm water management plan must consider all the storm water runoff flowing over the project site.

(2) All storm water runoff detention controls shall be designed by a person qualified and/or experienced in the design of such structures.

(3) The method used in calculating storm water runoff shall be the method designated in the Cambria County storm water management plan, or an equal method (approved by DER) if said plan has not been completed or adopted.

(4) Storm water roof drains and pipes shall discharge water into cisterns, french drains (where soils are suitable), sheet drains or other storm water runoff dispersion and absorption control devices and not into storm sewers unless recommended in the county watershed storm water plan (if prepared).

(5) No discharge of toxic materials into any storm water management system is permitted.

(6) Flow velocities from any storm drain shall be designed to minimize any deflection of the receiving channel.

(7) All activities shall be conducted in such a way as to minimize accelerated erosion and resulting sedimentation. Measures to control erosion and sedimentation shall at a minimum meet the standards of the Cambria County Conservation District and Chapter 102 (Erosions control) of Title 25, Rules and Regulations of the Pennsylvania Department of Environmental Resources.

### SECTION 3. Curbs and Sidewalks; Major, Collector and Marginal

Access Streets Only.

All gutters, curbs, and sidewalks shall be installed by the subdivider in accordance with the following interim specifications available in more detail from the Township Supervisors, Planning Commission or Township Engineer:

(a) Gutters shall be four (4) feet wide with four-inch (4") slope from edge of paving and shall be constructed of six-inch (6") compacted thickness of well choked No. 4 commercial slag or limestone and paved with one and one-half inch (1-1/2") Rolled I.D. Base.

(b) Curbs and sidewalks are not required at this time.

### SECTION 4. Sewage Disposal:

(a) Where the extension of a public sanitary sewer system is feasible as reported, sanitary sewers shall be installed to adequately serve all lots with connections to the public system, or,

(b) Where the extension of the public sanitary sewer system is not feasible as reported, the Subdivider shall install a community package-type disposal system or individual on-lot disposal facilities according to such criteria, standards and procedures as are acceptable to the State Department of Environmental Resources. Soil absorption (percolation) tests shall be as conducted by the local Sewage Enforcement Officer and approved by Pennsylvania Department of Environmental Resources as conditions precedent to action by the Board.

(c) The Board may require as a stipulation to the approval of on-lot or package-type disposal systems, the additional installation of capped sewer laterals on street rights-of-way or on utility easements where the extension of public sewage facilities to the area is definitely programmed either by Township Resolution or in the officially adopted Master Plan of the Township. In the event that such facilities are required, the Subdivider shall be in cooperation with the local authority, provide elevations and other data for the installation of the system.

(d) All sewers shall be installed in accordance with the requirements of the local authority.

#### SECTION 5. Water Supply.

(a) Where the extension of an existing public water system is feasible, the subdivider shall construct a complete distribution system for the area being subdivided, including a connection for each lot, and including appropriately spaced branch lines for fire hydrants. Nevertheless, this requirement shall not prevent the subdivider from entering into an agreement with a municipal authority or other municipal corporation or water company installing the water line, providing that as any lot owner in the subdivision connects with the water main the lot owner shall be required to pay his pro-rata share of the cost of the water main installed alongside his lot, as well as the cost of the lot connection line, to the subdivider, or to someone on his behalf, or from entering into such other reimbursement agreement as is approved by said municipal authority or corporation or water company, before the lot owner shall be permitted to connect with said water main.

(b) Where the connection to an existing public system is not feasible, the subdivider shall be required to offer proof that an on-lot well that would provide suitable and adequate drinking water can be drilled on the lot involved. If such proof is not provided,

then the subdivider shall be required to install a water distribution system from a well or other source or suitable and adequate drinking water in the vicinity, together with any necessary utility easements for this purpose and water lines connected to the lot involved.

SECTION 6. Monuments and Markers – Permanent reference monuments of precast concrete or a durable stone shall be installed by a registered surveyor at least six (6) inches square at the top and six (6) inches at the bottom and at least thirty (30) inches in depth, with copper dowel and shall be set at all corners and angle points of the boundaries of the original tract to be subdivided. Markers shall be installed at all lot corners and shall consist of iron or steel bars at least fifteen (15) inches long, and not less than one and one-half (1-1/2) inch in diameter.

SECTION 7. Community Facilities – Where deemed essential by the Board, upon consideration of the particular type of development proposed in the subdivision and especially in large scale subdivisions, the Board may require the dedication or reservation of such other areas or sites of an adequate character, extent and location suitable to the needs created by such developer for schools, parks and other neighborhood purposes. This shall normally be considered to be about five per cent (5%) of the gross area of the subdivision, including water areas. Suitable arrangements shall be made for fixing responsibility for continued maintenance of these areas. Also, consideration must be given to commercial shopping areas by only as directed by the Official Township Planning Map or if not in existence, in accordance with the existing zoning ordinance, amended to date.

SECTION 8. Street Signs – Street signs shall be installed at all street intersections by the Subdivider in accordance with Township Standards.

SECTION 9. Commercial Swimming Pools (Public or Private)- Swimming pools and their sanitary facilities shall be constructed in accordance with the rules and regulations of the Pennsylvania Department of Environmental Resources. Access Roads, if adjacent to present or future residential areas, shall contain a buffer zone that provides for visual screening (trees, large shrubs, etc.) of the swimming pool area.

SECTION 10. Fire Hydrants – A suitable hydrant fire protection system shall be installed by the Subdivider or land developer in accordance with the specifications of the water authority serving that area.

SECTION 11. Filing Plans and Profiles – Upon the completion of the improvements in a subdivision, plans and profiles of the same as constructed shall be filed with the Township Supervisors in the form of as-built tracings and prints.

SECTION 12. Street Lighting – The Township, at its discretion, will install street lighting.

SECTION 13. Cemeteries or burial grounds – Where a cemetery or burial ground is located on a lot affected by a subdivision, the Board must be assured of the future care and maintenance thereof by the creation of a trust fund, the estimated annual income of which will approximate One Hundred (\$100.00) Dollars a year, to be used for such purpose.

SECTION 14. Public Utilities.

(a) The Subdivider shall not be required to install service for telephone, electricity, gas and other utilities except as otherwise specifically required in this Ordinance, and except that the Subdivider must provide utility easements as set forth in Article VIII Section 6.

(b) Whenever utility lines are installed, they shall be placed underground whenever possible.

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## **ARTICLE X – Preliminary Plat**

SECTION 1. The preliminary plat shall conform to the provisions of Articles VIII and IX as set forth in these regulations and shall have the following information insofar as possible:

(a) Map Data:

1. Map scale 1" to 100' or larger, including 1"-800' or 1000' Location Map. Size of tracing materials shall be acceptable to the Board.

2. Name of subdivision, names and addresses of the owner, the signature of the engineer or surveyor, and the owners of adjacent land and stamp of engineer or registered surveyor.

3. Date, north point and graphic scale.

4. Acreage of land to be subdivided.
5. Boundary lines of the area to be subdivided and bearings and distances.
6. Physical features on the site, such as major tree formations, streams, rock outcrops, drainage ditches, retaining walls, etc.
7. Existing structures located on the site with a notation of the existing use and proposed future disposition.
8. Existing and proposed easements, their location, width and purpose.
9. Controlled topographic mapping with contours at an interval or not greater than five (5) feet.
10. Existing streets on and adjacent to the tract and their names, width, approximate grade and other dimensions as may be required.
11. Existing public utilities on and adjacent to the tract including line sizes or Capacity and location.
12. Proposed lot lines, lot numbers, streets, street grades, easements, crosswalks, building set-back lines, etc.
13. Sites, and their acreage, if any, to be reserved or dedicated for parks, playgrounds, or other public uses, and areas for semi-public, commercial or other use.
14. A permanent benchmark tied to United States Geodetic Survey benchmark.



15. Survey closure information indicated with known error of not more than 1 foot in 5000 feet.

16. All distances, directions and legal descriptions.

(b) Supporting Data:

1. An Engineer's report on the feasibility of connecting to the existing public water and sewage facilities if they are available; or an Engineer's report on the feasibility of installing a community project-type sewage disposal system; or an Engineer's report on the feasibility of on-lot water supply and sewage disposal to include the results of soil absorption tests and ground water availability and quality.

2. An Engineer's plan or report for handling storm drainage if new streets are to be involved in the proposed subdivision.

SECTION 2. The preliminary plat shall be accompanied by a certified or treasurer's or cashier's check, or postal or bank money order, payable to Upper Yoder Township, in the amount of Fifteen (\$15.00) Dollars, plus One (\$1.00) Dollar for each lot in the proposed subdivision with a minimum total charge of Twenty-Five (\$25.00) Dollars to cover the cost of checking and verifying the proposed plat, and such amount shall be deposited in the general fund of the Township Supervisors of the Township of Upper Yoder.

## **ARTICLE XI – Final Plat**

SECTION 1. The final plat shall conform substantially to the preliminary plat as approved. It may constitute only a portion of the preliminary plat which the Developer proposes to record and develop.

SECTION 2. The following list of specific items shall be adhered to in preparing the final plat for submission:

(a) Map Data:

1. The plat should be at a scale of 1" to 100' or larger.

2. Sheet sizes should conform to the dimensions of the standard County Plat Book. It may be necessary to break a larger plat into two or more smaller sheets with match lines in order to conform to the map scale and Plat Book dimensions. Tracings shall be acceptable cloth.

3. All dimensions, angles, bearings, and similar data on the plat should be tied to primary control points as approved by the Township Engineer.

4. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites with accurate dimensions to the nearest one hundredth of a foot; bearings or deflection angles, radii, arcs and central angles of all curbs to the nearest minute.

5. Name and purpose of each street, easement or reservation.

6. Lot numbers and minimum building setback lines.

7. Names and locations of adjoining subdivisions and streets, and the location and names of owners of adjoining unplatted property.

(b) Information to be Transcribed on Plat:

1. Certification on Plat of title showing that applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use.

2. Certification on the plat by a surveyor or engineer as to the accuracy of the survey and plat.

3. Certification on the plat that it has been approved by the Board of Township Supervisors.

(c) Supporting Data:

1. In cases where community project-type water and package-type sewage facilities are being planned for the subdivision and in cases where individual on-lot sewage disposal and water systems are being planned, there shall be attached to the final plat a certification by the PA DER that such installations as have been planned are acceptable.

2. Certification by the Township Supervisors that the Subdivider has complied with Article XIII as to Assurance of Improvements.

3. Approved cross-sections and profiles of public streets showing grades, and drawn to scales and elevations acceptable to the Township Supervisors shall accompany the final plat.

4. In the event that protective covenants are to be applied by the owner to the plan of lots, they shall be placed directly on the final plat or attached thereto in form for recording.

5. A sanitary sewer plan of the facilities to be accepted by the lawful authority having jurisdiction shall be required in cases where a connection is made to an existing sewage system or in a case where a package-type sewage-type sewage treatment installation is involved.

6. A public water plan of the facilities to be accepted by the lawful authorities having jurisdiction shall be required in cases where a connection is made to an existing public water system or in a case where a community-type water distribution system is involved.

7. A surface drainage plan of the facilities to be accepted by the lawful authorities having jurisdiction shall be required when the installation of such facilities proves to be necessary.

## **ARTICLE XII – Assurance of Improvements**

SECTION 1. No final plat shall be approved by the Board of Supervisors until the completion of all the required improvements has been certified to the Board by the Township Engineer, unless the Subdivider provides assurance of the completion of all the required improvements by one of the following:

(a) In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees required pursuant to subsection (i), the subdivision and land development ordinance shall provide for the deposit with the municipality of financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, sanitary sewers/septic systems, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.

(b) When requested by the developer, in order to facilitate financing, the municipality shall furnish the developer with a signed copy of a resolution indicating approval of the

final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the municipality; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(c) Without limitation as to other types of financial security which the municipality may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.

(d) Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the Commonwealth.

(e) Such bond, or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.

(f) The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the municipality may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the municipality may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.

(g) The amount of the financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licenses as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The municipality, upon the recommendation of the municipal engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and

the municipality are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this Commonwealth and chosen mutually by the municipality and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the municipality and the applicant or developer.

(h) If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by and additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to be an amount not exceeding 110% of the cost of security or to an amount not exceeding 110% and the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period.

(i) In the case where development is projected over a period of years, the municipality may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

(j) As the work of installing the required improvement proceeds, the party posting the financial security may request the municipality to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the municipality, and the municipality shall have 45 days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the municipality that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the municipality shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the municipality fails to act within said 45-day period, the municipality shall be deemed to have approved the release of funds as requested. The municipality may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

(k) Where the municipality accepts dedication of all or some of the required improvements following completion, the municipality may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of

said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.

(l) If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance, thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.

(m) If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any buildings or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

SECTION 2. The following procedure shall be followed for the Release from Improvement Bond.

(a) When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the municipality, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the municipal engineer. The municipality shall, within ten days after receipt of such notice, direct and authorize the municipal engineer to inspect all of the aforesaid improvements. The municipal engineer shall thereupon file a report, in writing, with the municipality, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the municipal engineer of the aforesaid authorization from the municipality; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved

or shall be rejected by the municipal engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

(b) The municipality shall notify the developer, within 15 days of receipt of the engineer's report, in writing by certified or registered mail of the action of said municipality with relation thereto.

(c) If the municipality or the municipal engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance, guaranty bond or other security agreement.

(d) If any portion of the said improvements shall not be approved or shall be rejected by the municipality, the developer shall proceed to complete the same and, upon completion, the same procedure or notification, as outlined herein, shall be followed.

(e) Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the municipality or the municipal engineer.

(f) Wherein herein reference is made to the municipal engineer, he shall be as a consultant thereto.

(g) The municipality may prescribe that the applicant shall reimburse the municipality for the reasonable and necessary expense incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the municipalities when fees are not reimbursed or otherwise imposed on applicants.

(1) In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within ten working days of the date of billing, notify the municipality that such expenses are disputed as unreasonable or unnecessary, in which case the municipality shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.

(2) If, within 20 days from the date of billing, the municipality and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and municipality shall jointly, by mutual agreement, appoint another

professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

(3) The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

(4) In the event that the municipality and applicant cannot agree upon the professional engineer to be appointed within 20 days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the municipality is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the municipal engineer nor any professional engineer who has been retained by, or performed services for, the municipality or the applicant within the preceding five years.

(5) The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the municipality shall pay the fee of the professional engineer, but otherwise the municipality and the applicant shall each pay one-half of the fee of the appointed professional engineer.

SECTION 3. In the event that any improvements which may be required have not been installed as provided in the subdivision and land development ordinance or in accord with the approved final plat the municipality is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the municipality may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

SECTION 4. The Subdivider shall pay to the Township the inspection fees of the Township Engineer, which shall not exceed 2% of the estimated cost of the required



public improvements, one-half of which is to be paid before the approval of the final plat for recording purposes and the balance prior to acceptance of the improvements by the Township by ordinance.

SECTION 5. The Subdivider shall pay to the Township all costs and expenses incident to the preparation of the agreement and the acquisition and disposition of the security.

### **ARTICLE XIII – Exceptions to Standard Procedures**

Whereas owing to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship, the Board shall make reasonable exceptions to the regulations as will not be contrary to the public interest. The following shall serve as a general guide in determining the issuance of an exception.

SECTION 1. Exceptional Conditions – The Township Supervisors may grant an exception to the regulations where by reason of exceptional shape of a specific piece of property, or where by reason of exceptional topographic conditions, the strict application of these regulations would result in extreme practical difficulties and undue hardship upon the owner of such property; provided, however, that such relief may be granted without detriment to the public good and without substantially impairing the intent and purpose of these regulations. In granting such exceptions or modifications, the Township Supervisors, upon the advice of the Planning Commission, may require such conditions as will substantially secure the objectives of the standards of requirements so varied or modified. Financial disadvantage to the property owner is not in itself adequate proof of hardship within the intent of these regulations.

SECTION 2. Subdivision Having an Area of Three Acres or Less – The following procedures and requirements shall apply to subdivisions of properties with an area not exceeding three acres when no new streets or roads are involved and the tract being subdivided is not adjoined by other unplatted land in the same ownership.

(a) Only one plat submission shall be required and the plat thus submitted shall be considered in all respects as the final plat, subject to the same endorsement of approval as any other final plat. However, to expedite plat approval, the subdivider may submit his intentions to the Planning Commission for review prior to preparation and submission of his final plat.

(b) The plat shall show the same engineering information otherwise required and the submission shall include all other information hereinbefore outlined.

## **ARTICLE XIV – Amendment Procedure**

SECTION 1. The following procedure shall be followed in amending the Upper Yoder Township Subdivision and Land Development Ordinance:

(a) Amendments to the subdivision and land development ordinance shall become effective only after a public hearing held pursuant to public notice in the manner prescribed by this article. In addition, in case of an amendment other than that prepared by the municipal planning commission, the municipality shall submit each such amendment to the municipal planning commission for recommendations at least 30 days prior to the date fixed for the public hearing on such proposed amendment. If a county planning commission shall have been created for the county in which the municipality proposing the amendment is located, then, at least 30 days prior to the hearing on the amendment, the municipality shall submit the proposed amendment to said county planning commission for recommendations.

(b) Within 30 days after adoption, the municipality shall forward a certified copy of any amendment to the subdivision and land development ordinance to the county planning commission.

SECTION 2. The following procedure shall be followed concerning the Publication, Advertisement and Availability of the Ordinance:

(a) Proposed subdivision and land development amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed amendments may be examined without charge or obtained for a charge not greater than the cost thereof. The municipality shall publish the proposed amendments once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed amendments shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinance.

(b) In the event substantial amendments are made in the ordinance, before voting upon enactment, the municipality shall, at least ten days prior to enactment readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

(c) Subdivision and land development amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

## **ARTICLE XV – Application**

SECTION 1. All regulations of the Upper Yoder Township Subdivision Ordinance shall be applicable to districts zoned within the Township.

SECTION 2. For districts zoned other than residential within the Township, the regulations in Article VIII, Section 4, shall not be applicable, but all other regulations shall be applicable.

## **ARTICLE XVI – Penalties and Enforcement**

SECTION 1. Any person, copartnership or corporation who or which shall subdivide any lot, tract or parcel of land, lay out, construct, open or dedicate any street, sanitary sewer, storm sewer or water main, for public use or travel, or for the common use of occupants of buildings abutting thereon, or shall sell any lot or erect any building, without first having complied with all the provisions of this Ordinance shall be subject to the following actions:

(a) In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, or 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.

(b) A municipality 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:

- (1) The owner of record at the time of such violation.
- (2) 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.
- (3) 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.
- (4) 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.

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 municipality 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.

SECTION 2. District justices shall have initial jurisdiction in proceedings brought under Section 3.

SECTION 3. The following enforcement remedies shall be applicable to any violation of the provisions of this ordinance:

(a) Any person, partnership or corporation who or which has violated the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the 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, the municipality 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 the ordinance to have believed that there was no such violation, in which event there shall be deemed to have only one such violation until the fifth 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.

(b) 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.

(c) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

## **ARTICLE XVII – Validity and Repealer**

SECTION 1. The provisions of this Ordinance shall be severable and if any of its provisions or any part of any provision shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision not been included herein.

SECTION 2. All ordinances or parts of ordinances inconsistent with any of the provisions of this Ordinance are hereby repealed.

The Board of Supervisors hereby finds that such amendments are in accord with the intent of the Upper Yoder Township Subdivision and Land Development Ordinance, and Act 247 of 1968, as amended by Act 170 of 1988, and that the said amendments are in accordance with the recommendations of the Upper Yoder Township Planning Commission.

ORDAINED AND ENACTED this 6th day of September, 1990.

THE TOWNSHIP OF UPPER YODER

By Roy M. Shaffer, Supervisor

Dean Shaffer, Supervisor

Dennis Baserman, Supervisor

Robert Amistadi, Supervisor

Richard Orris, Supervisor

ATTEST:

Mary Kay Maher  
Secretary