

ORDINANCE NO. 2023-889

**UPPER MERION TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING CODE,
SECTION 165-219.1, CONDITIONAL USE PROCEDURE, TO REQUIRE CONDITIONAL
USE APPLICATIONS TO BE SUBMITTED TO THE UPPER MERION PLANNING
COMMISSION, AND APPLICANTS TO APPEAR BEFORE THE PLANNING
COMMISSION, PRIOR TO THE CONDITIONAL USE HEARING**

WHEREAS, the Pennsylvania Second Class Township Code and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.*, authorizes the Board of Supervisors of Upper Merion Township (“Board”) to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care and control of Upper Merion Township (“Township”) and the maintenance of peace, good government, health and welfare of the Township and its citizens;

WHEREAS, Section 603(c)(2) of the Pennsylvania Municipalities Planning Code provides, in part, that the Township Zoning Code may contain provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency and hearing, pursuant to express standards and criteria set forth in the zoning ordinance.

WHEREAS, the Board desires to amend the Township Zoning Code, Chapter 165, to require that conditional use applications be transmitted to the Upper Merion Planning Commission, and that applicants appear before the Upper Merion Planning Commission for a review of the application, so that the Planning Commission may submit an advisory opinion on the application to the Board;

WHEREAS, the Board has met the procedural requirements of the Pennsylvania Municipalities Planning Code, for the adoption of the proposed ordinance, including advertising, submission to the planning commissions, and holding a public hearing; and

WHEREAS, the Board, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety and general welfare of the residents and guests of the Township will be served by this amendment of the Upper Merion Township Zoning Code as set forth below;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Merion Township, Montgomery County, Pennsylvania, as follows:

SECTION I. Code Amendment. The Upper Merion Township Code, Chapter 165, Zoning, Article XXXI. General Regulations, § 165-219.1, Conditional use procedure, is hereby amended to provide an additional subsection F that reads as follows:

F. At least 30 days before the date of the public hearing required by law for an application for a conditional use to be heard before the Board of Supervisors, the Township Planner, or another person designated by the Township Manager, shall transmit to the Upper Merion Planning Commission a copy of the conditional use application, notice of hearing, and other information or exhibits as may have been furnished by the applicant. Thereafter, the applicant shall appear before the Planning Commission for a review of the application. The Planning Commission may submit an advisory opinion, based upon the express standards and criteria of the Township Zoning Code applicable to the conditional use application, to be considered by the Board of Supervisors, provided that the opinion is received on or before the date of the public hearing of the Board of Supervisors.

SECTION II. Severability. The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part, or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the Upper Merion Township Board of Supervisors hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance, and the remainder of the Ordinance shall remain in force.

SECTION III. Repealer. Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.


SECTION IV. Effective Date. This Ordinance shall become effective upon enactment at the earliest time provided by law.

SECTION V. Failure to Enforce Not a Waiver. The failure of Upper Merion Township to enforce or delay enforcement of any provision of this Ordinance shall not constitute a waiver by Upper Merion Township of its rights to future enforcement hereunder.

ORDAINED AND ENACTED by the Board of Supervisors of Upper Merion Township, Montgomery County, Pennsylvania, this 8th day of JUNE, 2023.

**UPPER MERION TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:

By: 
Anthony Hamaday, Township Secretary

By: 
Tina Garzillo, Chair
Upper Merion Township
Board of Supervisors