

**ORDINANCE NO. \_\_\_\_\_**  
**UPPER MERION TOWNSHIP**  
**MONTGOMERY COUNTY, PENNSYLVANIA**

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**AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING  
CODE, CHAPTER 165, TO REQUIRE 30% OF A MULTIFAMILY BUILDING TO  
MAINTAIN A MIXED-USE IN THE KPMU DISTRICT**

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**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**, the Board desires to amend the Township Zoning Code, Chapter 165, to require a certain portion of mixed uses on properties containing multifamily in the KPMU District;

**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.** Chapter 165, Zoning, of the Upper Merion Township Code, is hereby amended as follows:

- A. Section 165-160.2, Use regulations, Table KPMU 1 Permitted Uses, related to the uses permitted in the KPMU-King of Prussia Mixed Use District, is hereby amended to add a new section (h) under Footnote 5 (related to Multifamily building requirements) to provide:**

(h) A multifamily use shall be located within a mixed-use building with at least thirty percent (30%) of the building’s gross floor area occupied by an additional permitted primary use. Any structured parking, located in a mixed-use building, will be considered accessory.

**B. Section 165-160.3, Dimensional requirements, Footnote 6 and 7 is hereby amended to provide:**

6. Professional, scientific and professional services, hotels, educational services, finance and insurance, and health care services uses in buildings exceeding 65 feet but no more than 80 feet in height are permitted by conditional use in accordance with the following conditions:
  - a. One or more of these uses must comprise at least 80% of the gross floor area.
  - b. The minimum lot size is four acres.
  - c. Minimum side and rear yard building setbacks established in this section shall be increased two feet for each foot of building height exceeding 65 feet. This requirement shall not apply to side yard building setbacks abutting street, rear yard building setbacks abutting street and any yards abutting limited-access highways.
  - d. Implementation and compliance with LEED Silver standards for the appropriate development type.
  
7. Professional, scientific and professional services, hotels, educational services, finance and insurance, and health care services uses in buildings exceeding 80 feet but no more than 120 feet in height are permitted by conditional use in accordance with the following conditions:
  - a. One or more of these uses must comprise at least 80% of the gross floor area.
  - b. The minimum lot size is six acres.
  - c. Minimum side and rear yard building setbacks established in this section shall be increased two feet for each foot of building height exceeding 65 feet. This requirement shall not apply to side yard building setbacks abutting street, rear yard building setbacks abutting street and any yards abutting limited-access highways.
  - d. A shadow analysis shall be provided for any proposed buildings over 80 feet tall to measure the impact of shadows cast on adjacent parcels. Based on the results of the analysis, the applicant shall consider alternate locations for the proposed building(s) if required by the Township.
  - e. Implementation and compliance with LEED Gold standards for the appropriate development type.
  - f. Buildings over 80 feet in height and located between the minimum and maximum front yard setback of a primary arterial, arterial or primary collector roads shall be subject to an additional 20 feet of front yard setback for the portion of building frontage over 65 feet high. The additional twenty-foot front yard setback for the portion of the building over 65 feet high shall not be required to be located within the maximum front yard setback.
  - g. Two hundred square feet of common use area shall be provided for each foot of building height over 80 feet in accordance with the following:
    - (1) The common use area shall not overlap the required buffer area except to connect to open space on contiguous parcels.

- (2) The common use area shall be accessible from the building and consist of a contiguous area of at least 2,500 square feet. The perimeter of the common use area shall not have a dimension less than 50 feet on any one side.
- (3) The common use area shall connect to adjacent open space parcels.

**Section II. Repealer.** In addition to the above, all other ordinances or parts of ordinances that are inconsistent herewith, are hereby repealed. Further, it is understood and intended that all other sections, parts, provisions, and ordinances that are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

**Section III. Severability.** In the event that any section, sentence, clause, phrase or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

**Section IV. Effective Date.** This Ordinance shall take effect immediately upon its legal enactment.

**Section V. Failure to Enforce Not a Waiver.** The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**Section VI. Enactment.** The Board of Supervisors of Upper Merion Township, in the County of Montgomery, Commonwealth of Pennsylvania does hereby approve and ordain and this Ordinance for the Township of Upper Merion, this \_\_\_\_ day of \_\_\_\_\_, 2023.

**ATTEST:**

**UPPER MERION TOWNSHIP  
BOARD OF SUPERVISORS**

By: \_\_\_\_\_  
Anthony Hamaday, Township Secretary

By: \_\_\_\_\_  
Tina Garzillo, Chairperson of the  
Upper Merion Township  
Board of Supervisors