

Upper Bern Township Ordinance Number 125 - 2013

An Ordinance of Upper Bern Township, Berks County, Pennsylvania, which is intended to amend the Upper Bern Township Zoning Ordinance of 2008, by amending certain definitions that are contained under Section 202 (Specific Terms) and by adding provisions for group institutional uses and incarceration facilities.

Whereas, Upper Bern Township has duly adopted and does maintain a zoning ordinance titled the "Upper Bern Township Zoning Ordinance of 2008" (the "Zoning Ordinance").

Whereas, Section 609 of Pennsylvania Municipalities Planning Code ("MPC") authorizes municipalities to amend their zoning ordinances.

Whereas, the Board of Supervisors believes it is in the best interest of Upper Bern Township to further regulate group institutional uses and incarceration facilities by establishing specific standards, which do not conflict with the provisions for group homes and/or institutional uses.

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 Zoning Ordinance.

Now therefore, be it ordained that the Upper Bern Township Board of Supervisors does hereby approve and adopt the following amendments to the Zoning Ordinance, as follows:

Section 1: The following definitions shall be revised under Section 202 (Specific Terms) of the Zoning Ordinance:

Group Home: A residential facility used as a living quarters by a maximum of five (5) unrelated persons who require special training, care, supervision, treatment and/or rehabilitation because of their age, disability, court-mandated residency or physical addictions. This term does not include home day care uses, commercial day care centers, foster homes, schools, student housing, dormitories, institutional uses, rehabilitation facilities, prisons, juvenile detention facilities, group institutional uses and/or incarceration facilities. A group home is specifically designed to create a single-family residential setting and must be licensed by the Commonwealth of Pennsylvania

Institutional Use: A use or activity that includes, but not limited to, educational uses, hospitals, medical centers, health care uses, churches, religious uses, assisted living care facilities, convalescent homes, nursing homes, and other similar institutional uses as determined by the Zoning Officer. This term does not include "group institutional uses" and/or "incarceration facilities".

Section 2: The following definitions shall be added to Section 202 (Specific Terms) of the Zoning Ordinance:

Group Institutional Use: A residential facility used as a living quarters by six (6) or more persons, excluding supervisors, not necessarily related by blood, marriage, adoption, or legal guardianship, who, because of their physical or emotional condition, or their social or interpretation skills, otherwise would limit, inhibit, or prevent their ability to function as useful or productive members of society. All such group institutions shall be provided with full-time support services through a licensed social service agency and the Commonwealth of Pennsylvania.

Incarceration Facility: A use or facility designed to detain, confine, reform, educate, treat and/or rehabilitate persons who have been required to be a resident for a specified period of time by an authority with jurisdictional control.

Section 3: The following use shall be added to Section 408.C (GI Conditional Uses) of the Zoning Ordinance:

- (12) Group institutional uses and incarceration facilities, subject to the provisions specified under Section 829 of this Zoning Ordinance.

Section 4: The following use shall be added to Section 409.C (AI Conditional Uses) of the Zoning Ordinance:

- (14) Group institutional uses and incarceration facilities, subject to the provisions specified under Section 829 of this Zoning Ordinance

Section 5: The following provisions shall be added as a new section under Article 8 of the Zoning Ordinance:

Section 829: Group Institutional Uses and Incarceration Facilities:

- (A) Group institutional uses and incarceration facilities, as further defined under Article 2 of this Zoning Ordinance, shall be permitted by conditional use within the General Industrial (GI) and Agricultural Industrial (AI) Zoning Districts, subject to the provisions that are further specified by this Zoning Ordinance.
- (B) A minimum of ten (10) acres of contiguous net land area shall be required to accommodate all of the uses within a group institutional use or incarceration facility.
- (C) The following design standards and specifications shall apply to group institutional uses or incarceration facilities:
 - (1) The group institutional use or incarceration facility shall be serviced by public sanitary sewage disposal facilities, which shall be planned in accordance with the most recent update to the Upper Bern Township Sewage Facilities Plan. All sewage disposal facilities shall be designed with sufficient capacities, which shall be subject to the review and approval of Upper Bern Township and the Pennsylvania Department of Environmental Protection.
 - (2) The group institutional use or incarceration facility shall be shall be serviced by public or on-lot water supply facilities, which shall be consistent with any plans and ordinances adopted by Upper Bern Township. All water supply facilities shall be designed with sufficient capacities, which shall be subject to the review and approval of Upper Bern Township and the Pennsylvania Department of Environmental Protection.
 - (3) All other utility provisions serving the group institutional use or incarceration facility shall be planned and installed in accordance with the specifications of the public utility provider supplying service. Unless otherwise required, the utility services and connections shall be installed underground.
 - (4) The minimum lot width requirement for the group institutional use or incarceration facility shall be four hundred (400) feet.
 - (5) All principal and accessory uses shall be located at least one hundred (100) feet from any street right-of-way line and all other external property lines.

- (6) As part of the conditional use application, the security needs of the group institutional use or incarceration facility shall be assessed by the Board of Supervisors. The following requirements shall be considered:
- (a) The applicant shall provide documentation to account for the security needs of the group institutional use or incarceration facility considering the risk of the persons that are required to be a resident or occupant.
 - (b) The applicant shall provide documentation concerning the security measures that are to be implemented such as staffing, facility enhancements and technical provisions.
 - (c) If required by Upper Bern Township, a security fence with a minimum height of six (6) feet to a maximum height of twelve (12) feet shall be erected a minimum of thirty (30) feet from all boundary lines and street right-of-way of the group institutional use or incarceration facility. The fence shall not contain openings greater than four (4) square inches and shall be designed with a twenty-four (24) hour secured automated access gate.
 - (d) Security check points shall be located along all internal access roads serving the group institutional use or incarceration facility.
- (7) A twenty (20) foot wide buffer yard shall completely surround all areas approved for the group institutional use or incarceration facility. The buffer yard shall consist of a dense evergreen screen, which shall be located and maintained along all boundary lines and street right-of-way of the site, except at the entrances. The selected evergreens shall have a minimum height of six (6) feet and shall be staggered on twenty (20) foot centers, which shall be subject to the approval of the Board of Supervisors.
- (8) The off-street parking and loading spaces for the group institutional use or incarceration facility shall be designed to comply with the provisions specified under Article 10 of this Zoning Ordinance.
- (9) All proposed signs required for the group institutional use or incarceration facility shall comply with the provisions specified under Article 11 of this Zoning Ordinance.
- (10) Exterior storage areas for trash and rubbish shall be properly screened with secured fencing and landscaping materials. All containers shall be enclosed, vermin proof and have adequate storage capacity to accommodate the projected volumes of solid waste. No such storage area for trash and rubbish shall be permitted within fifty (50) feet from any property line or street right-of-way line.
- (D) The group institutional use or incarceration facility shall be authorized and licensed by the designated county, state or federal agency with jurisdictional control.
- (E) Group homes, as defined under Article 2 of this Zoning Ordinance, are regulated by the provisions specified under Section 709 of this Zoning Ordinance.
- (F) Institutional uses, as defined under Article 2 of this Zoning Ordinance, are regulated by the provisions specified under Section 806 of this Zoning Ordinance.

(G) Group institutional uses and incarceration facilities have been defined and regulated by this Zoning Ordinance. All uses that are not defined or regulated by this Zoning Ordinance shall be subject to the provisions specified under Section 828 of this Zoning Ordinance.

Section 6: The Table of Contents included as part of the prelude and reference to the Upper Bern Township Zoning Ordinance shall be revised as follows:

Section 709: Group Homes

Section 829: Group Institutional Uses and Incarceration Facilities

Section 7: 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 8: 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 9: Effective Date: This Ordinance shall become effective within five (5) days after adoption.

Section 10: Municipal Enactment

Ordained and enacted this 22 day of July, 2013, by a vote of 3 Yes 0 No
0 Abstained 0 Absent.

Upper Bern Township Board of Supervisors

By:

Eric D. Stang

Nancy A. Hartman

Rodney Loh

Attest:

Imyee Klee
Upper Bern Township Secretary