

**Upper Bern Township Ordinance Number 152 - 2019**

An Ordinance of Upper Bern Township, Berks County, Pennsylvania, which is intended to amend the Upper Bern Township Zoning Ordinance of 2008, by modifying, revising or adding certain provisions relating to surface rock and mineral extraction activities within Upper Bern Township.

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 the community to add, modify and/or revise certain provisions that have been identified, prepared and/or evaluated by the Planning Commission.

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 added, modified or revised under Section 202 (Specific Terms) of the Zoning Ordinance:

- (A) Surface Rock: A native resource or geological feature that is located at or near the surface of the ground prior to any earth disturbance or excavation activities.
- (B) Surface Rock or Mineral Extraction: The removal of surface rocks and/or minerals from a property in accordance with the provisions specified by Section 925 of this Zoning Ordinance.

Section 2: The following provisions shall be added as Section 925 (Surface Rock and Mineral Extraction) under Article 9 of the Zoning Ordinance:

**Section 925: Surface Rock and Mineral Extraction**

- (A) Surface rock and/or mineral extraction activities, as defined under Section 202 of this Zoning Ordinance, may be permitted within Upper Bern Township as follows:
  - (1) Surface rock and/or mineral extraction activities shall be permitted by right in all Zoning Districts, provided that such activities are limited to the removal of no more than 20 tons of surface rock or minerals from any property of group of contiguous parcels within any given calendar year.
  - (2) Surface rock and/or mineral extraction shall be permitted by special exception within the AP, BMP and AI Zoning Districts, provided that such activities are limited to a range of 20 tons (minimum) to 50 tons (maximum) of surface rock or minerals from any property of group of contiguous parcels within any given calendar year.
  - (3) Surface rock and/or mineral extraction activities involving the removal of more than 50 tons of surface rock or minerals from any property of group of contiguous parcels within any given calendar year shall be classified as a Quarrying or Mining Operation, subject to the provisions specified under Section 818 of the Zoning Ordinance.

- (B) A Zoning Permits shall be required for all surface rock and/or mineral extraction activities.
- (C) An Erosion and Sedimentation Control Plan shall be required for surface rock and/or mineral activities that involve earth disturbance activities of more than 5,000 square feet of surface area. All such plans shall be submitted to Upper Bern Township and the Berks County Conservation District for review and consideration.
- (D) The landowner or operator shall be insured or bonded in the amount of \$10,000 (minimum) to cover the cost of any damage or remediation work that may be necessary to repair any public road, utility and/or stormwater management facility within Upper Bern Township. This provision may be waived by Upper Bern Township if the activities are to be limited to the removal of no more than 20 tons of surface rock or mineral and the operations will occur for a period of time that does not exceed 5 cumulative days in any given calendar year.
- (E) The area occupied by the surface rock and/or mineral extraction activities shall be restored and stabilized to a condition acceptable to the landowner and Upper Bern Township.

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

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

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

Section 6: Municipal Enactment

Ordained and enacted by the Upper Bern Township Board of Supervisors on August 12, 2019, by a vote of:  
 Yes  No  Abstained  Absent.

**Upper Bern Township Board of Supervisors**

By:           Sonia Chen            
          Karey A. Hartman            
          Mohal Ah          

Attest:

          Don Shewalter            
 Upper Bern Township Secretary