

TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO.: 148-2018

**AN ORDINANCE OF UPPER BERN TOWNSHIP, BERKS COUNTY,
PENNSYLVANIA, TO AMEND THE UPPER BERN TOWNSHIP ZONING
ORDINANCE OF 2008 AND ORDINANCE NO. 145 OF 2018, BY REPEALING
CERTAIN REGULATIONS CONCERNING DRONES**

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"); and

WHEREAS, Upper Bern Township amended the Zoning Ordinance on May 10, 2018, at Ordinance No. 145-2018 to, among other things, provide municipal regulation of drones; and

WHEREAS, Section 609 of Pennsylvania Municipalities Planning Code ("MPC") authorizes municipalities to amend their zoning ordinances; and

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 78 of 2018 which preempts municipal regulation of drones, and therefore, the Board of Supervisors wishes to repeal certain provisions of the Zoning Ordinance concerning drones; and

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Section 1: The following definition shall be repealed from Section 202 (Specific Terms) of the Zoning Ordinance:

Drone. A portable or unmanned aerial vehicle capable of taking flight and being controlled within the atmosphere utilizing instruments.

Section 2. The following provisions shall be repealed from Article 9 of the Zoning Ordinance:

Section 925: Drones

- (A) A drone shall be considered as a personal unmanned aerial vehicle utilized on a private property and/or within certain zoning districts within Upper Bern Township.
- (B) A private drone or personal unmanned aerial vehicle may be permitted as an accessory use in all zoning districts, provided that it is operated within the air space above the property occupied by the principal use.

- (C) Unless permitted by the Upper Bern Township Board of Supervisors, no drones or personal unmanned aerial vehicles shall be operated on or within the airspace of lands owned by Upper Bern Township.
- (D) All drones or personal unmanned aerial vehicles shall comply with all local, state and federal regulations.

The landowner or applicant shall provide all documentation or evidence to the Zoning Officer and Planning Commission for review and consideration. If acceptable, the Board of Supervisor may authorize the reduction or modification as part of a zoning permit application, building permit application or land development plan application.

Section 3. The Table of Contents included as part of the prelude and reference to the Upper Bern Township Zoning Ordinance shall be revised to delete the following:

Section 925: Drones

Section 4. 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 5. 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 6. Effective Date. This Ordinance shall become effective upon adoption.

ORDAINED AND ENACTED this 27th day of December, 2018, by a vote of 3-0
 Yes 3 No _____ Abstained _____ Absent.

UPPER BERN TOWNSHIP BOARD OF SUPERVISORS

By: Ervin Steinly
 Ervin Steinly, Chairman

By: Nancy A. Hartman
 Nancy Hartman, Vice Chairman

By: Gloria Grim
 Gloria Grim, Supervisor

Attest:

Bert Shavallin
 Secretary