

**DERRY TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2023-05**

**AN ORDINANCE AMENDING THE CODE OF DERRY TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA, BY AMENDING CHAPTER 225, ZONING, ARTICLE II, FORM AND FUNCTION, SECTION 225-205, PERMITTED USES, TABLE 1: ZONING ORDINANCE LAND USE TABLE, BY PERMITTING DWELLINGS FOR EMPLOYEES & STUDENTS AS A CONDITIONAL USE IN THE DOWNTOWN CORE OVERLAY 9.1 OF THE HERSHEY MIXED USE ZONING DISTRICT; AMENDING ARTICLE III, ZONING DISTRICTS AND OVERLAYS, SECTION 225-315, HERSHEY MIXED USE, TABLE 28: HERSHEY MIXED USE USES, BY ADDING DWELLINGS FOR EMPLOYEES & STUDENTS TO THE LIST OF RESIDENTIAL USES PERMITTED BY CONDITIONAL USE IN THE DOWNTOWN CORE OVERLAY 9.1 OF THE HERSHEY MIXED USE ZONING DISTRICT, SUBJECT TO THE CONDITIONAL USE CRITERIA IN SECTION 225-501.56; AMENDING ARTICLE V, CONDITIONAL USES AND SPECIAL EXCEPTIONS, SECTION 225-501.56 BY ADDING DWELLINGS FOR EMPLOYEES & STUDENTS AS A CONDITIONAL USE IN THE DOWNTOWN CORE OVERLAY 9.1 OF THE HERSHEY MIXED USE ZONING DISTRICT AND ASSOCIATED CRITERIA; REPLACING APPENDIX E, COST-BENEFIT ANALYSIS REQUIREMENTS FOR MASTER PLAN APPROVALS, WITH APPENDIX E, TOWNSHIP AND SCHOOL DISTRICT COST-BENEFIT ANALYSIS REQUIREMENTS, REPEALING INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, has the authority pursuant to Section 1506 of The Second Class Township Code, 53 P.S. §66506, Section 601 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10601, and Section 225-901 of Chapter 225, Zoning, of the Derry Township Code of Ordinances to enact and amend the Zoning Ordinance to advance the health, safety, and welfare of the citizens of Derry Township; and

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, has previously ordained and enacted an ordinance entitled, “The Official Zoning Ordinance of the Township of Derry”, which is found at Chapter 225 of the Code of Ordinances of Derry Township; and

**WHEREAS**, the Hershey Mixed Use zoning district and the Downtown Core Overlay were enacted to encourage innovations in residential and nonresidential development and renewal which makes use of a mixed-use form of development so that the growing demand for housing and other development may be met by greater variety in type, design, and layout of dwellings and other buildings and structures, and to extend greater opportunities for better housing; and

**WHEREAS**, the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania believes that it is in the best interest of Derry Township and the residents of Derry Township to amend Chapter 225, Zoning, of the Derry Township Code of Ordinances to permit Dwellings for Employees & Students as a Conditional Use in the Downtown Core Overlay 9.1 of the Hershey Mixed Use zoning district, subject to certain criteria.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, that Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended as follows:

**SECTION 1:** Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended by amending Article II, Form and Function, Section 225-205, Permitted Uses, Table 1: Zoning Ordinance Land Use Table, by adding Dwellings for Employees & Students as a Conditional Use in the Downtown Core Overlay 9.1 of the Hershey Mixed Use zoning district.

**SECTION 2:** Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended by amending Article III, Zoning Districts and Overlays, Section 225-315, Hershey Mixed Use, Table 28: Hershey Mixed Use Uses, by adding Dwellings for Employees & Students as a Conditional Use in the Downtown Core Overlay 9.1 of the Hershey Mixed Use district subject to Section 501.56 under Residential Uses:

Dwellings for Employees & Students	C	§501.56
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**SECTION 3:** Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended by amending Article V, Conditional Uses and Special Exceptions, Section 225-501.56, Reserved, by adding Dwellings for Employees & Students as a Conditional Use in the Downtown Core Overlay 9.1 of the Hershey Mixed Use zoning district to read as follows:

**§225-501.56. Dwellings for Employees & Students. (Downtown Core Overlay 9.1 of the HMU zoning district).**

- A. Within the Hershey Mixed Use zoning district, Dwellings for Employees & Students are only permitted in the Downtown Core (9.1) Overlay as a Conditional Use, subject to the provisions and restrictions contained in this Section.
- B. The minimum lot area shall be 3 acres.
- C. The maximum number of occupants per bedroom shall be 2.
- D. The maximum height of any building consisting of a Dwelling for Employees and Students use shall be 65 feet.
- E. Buildings used for Dwellings for Employees and Students may contain a certain number of units without cooking facilities so long as such dwelling units

comply with all additional applicable codes and regulations, and further subject to and limited by the following scale:

1. if the building has 50 total units or less, a maximum of 5 units may be constructed without cooking facilities;
  2. if the building has 51 to 100 total units, a maximum of 10 units may be constructed without cooking facilities;
  3. if the building has 101 to 150 total units, a maximum of 20 units may be constructed without cooking facilities;
  4. if the building has 151 to 200 total units, a maximum of 25 units may be constructed without cooking facilities; and
  5. if the building has more than 200 total units, a maximum of 30 units may be constructed without cooking facilities.
- F. Regardless of the terms of occupancy assigned to a unit, each unit developed within a complex or development shall be subject to the park, recreation, and open space dedication requirements of Chapter 185, Subdivision and Land Development.
- G. Only current Employees and/or Students of the associated business and/or institution may occupy the units for a duration not to exceed twenty-four (24) months, with the following exceptions:
1. Family members or sponsors supporting a prospective employee or student of the associated institution or associated business, for a duration not to exceed seven (7) days.
  2. Alumni of the associated institution under the age of 26, for a duration not to exceed twenty-four (24) months.
  3. Prospective employees of an associated business and/or institution during the interviewing and/or vetting process for a duration not to exceed 6 months.
- H. The applicant shall agree to and have recorded against the subject property a declaration restricting the occupants of the dwellings in a manner and form acceptable to the Township and in accordance with the provisions and restrictions in this Section in order to be considered a Dwelling for Employees & Students use. Such declaration shall require written notice to the Township prior to any change in ownership of the property wherein the Dwelling for Employees & Students use is located.
- I. A complete pedestrian sidewalk network, shuttle service, bike share and/or mass transit service shall be available to or provided by the employer and/or institutional facilities from the dwelling unit to the associated employer and/or institutional facility and vice versa in a manner and form deemed acceptable to the Board of Supervisors at the time of the Conditional Use hearing. The design and layout shall encourage the use by the residents of the Dwelling for

Employees & Students use and the public in a manner and form acceptable to the Board of Supervisors.

J. Nonresidential Uses on Ground Floor.

1. Buildings containing more than 20 dwelling units for employees and/or students located within 25 feet of the Chocolate Avenue right-of-way shall provide 50% of the ground floor area to be used as nonresidential uses to engage the public through the inclusion of office, commercial, and/or retail space as otherwise permitted in the Downtown Core (9.1) Overlay, unless the Board of Supervisors allows for a reduction of the area used for nonresidential uses at the Conditional Use hearing based on the number of units and additional evidence presented by the applicant. In no event shall such non-residential uses consist of less than 25% of the ground floor area.
2. Buildings located in excess of 25 feet of the Chocolate Avenue right-of-way shall provide ground floor area for nonresidential uses to engage the public through the inclusion of office, commercial, and/or retail space as otherwise permitted in the Downtown Core (9.1) Overlay, of no less than the square footage provided for in the following scale:
  - (a) Buildings with 50 total units or less must have a minimum of 400 square feet of ground floor area dedicated to nonresidential uses;
  - (b) Buildings with 51 to 100 total units must have a minimum of 800 square feet of ground floor area dedicated to nonresidential uses;
  - (c) Buildings with 101 to 150 units must have a minimum of 1,200 square feet of ground floor area dedicated to nonresidential uses;
  - (d) Buildings with 151 to 200 units must have a minimum of 1,600 square feet of ground floor area dedicated to nonresidential uses; and
  - (e) Buildings with 201 total units or more must have a minimum of 2,000 square feet of ground floor area dedicated to nonresidential uses.

Upon the request of the applicant, the Board of Supervisors may grant an increase in ground floor square footage dedicated to non-residential uses up to 25% of the total ground floor area during the Conditional Use hearing based on the number of units and additional evidence presented by the applicant.

- K. One parking space shall be required per unit in addition to any other required parking provisions of this Chapter.
- L. Building design and materials and site design shall be subject to the requirements of §225-429, Downtown Core Design Standards.
- M. A Cost-Benefit Analysis, prepared in accordance with Appendix E of this Chapter, shall be provided.

- N. The maximum density shall be 49 units per net developable acre.
- O. Building awnings, if provided, shall be set back a minimum of 5 feet from a public street right-of-way.
- P. Any expansion, revision and/or proposed change to the Dwelling for Employees & Students use shall be subject to conditional use review and approval by the Board of Supervisors. The applicant shall submit a conditional use application for the consideration of the Board of Supervisors prior to any such expansion, revision and/or change in such use.
- Q. No more than one building on a lot may be used as a Dwelling for Employees & Students use.
- R. The owner and/or operator of the property must be associated with and/or have an agreement with the business and/or institution wherein the employees and/or students work and/or attend.
- S. No building used as a Dwelling for Employees & Students use shall be closer than 500 feet from another building used as a Dwelling for Employees & Students use, measured from the property line of each such use.
- T. The rules and regulations applicable to the conduct of the students in the Dwellings for Employees & Students use shall, at a minimum, conform to those applicable to on-campus housing of the institution wherein the student tenants at issue attend. The owner and/or applicant shall provide proof of such rules and regulations to the Township.
- U. The minimum floor area of living space of each dwelling unit shall be in accordance with the applicable building code and regulations and consistent with Chapter 85, Uniform Construction Codes of the Township's Code of Ordinances.
- V. Noise abatement measures acceptable to the Township shall be used to minimize the potential for negative impacts to neighboring properties.
- W. The dwelling units within the Dwelling for Employees & Students use shall not be permitted to be used for any purpose other than a residence for those individuals referenced herein.

**SECTION 4:** Chapter 225, Zoning, of the Derry Township Code of Ordinances is hereby amended by replacing Appendix E, Cost-Benefit Analysis Requirements For Master Plan Approvals, with a new Appendix E, titled "Township and School District Cost-Benefit Analysis Requirements" to read as follows:

**APPENDIX E  
TOWNSHIP AND SCHOOL DISTRICT COST-BENEFIT ANALYSIS  
REQUIREMENTS**

- A. The Township and School District cost-benefit analysis for a proposal shall be considered by the Board of Supervisors during the application process for certain conditional uses and rezoning proposals. If the cost-benefit analysis demonstrates a negative fiscal impact to the Township or school district, the analysis may be a basis for disapproval on the premise that the development does not support the minimum conditions of a conditional use application indicated in §225-501.K, and/or the minimum conditions of a rezoning application indicated in §225-704, and/or the policy, goals, and community development objectives as indicated in §225-103 of the Ordinance.
- B. Impact Evaluation Standards: In measuring impact, the following factors shall be used:

<b><u>1. Demographics:</u></b>		
<b><u>Dwelling Type</u></b>	<b><u>Residents</u></b>	<b><u>Students</u></b>
1 Bedroom Unit	1.25	0.01
Active-Adult Unit	1.60	0.01
2 Bedrooms	1.60	0.25
3 Bedrooms	2.30	0.55
4 Bedrooms	3.00	0.85
5 or more Bedrooms	3.75	1.25

<b><u>2. Township Fiscal Impacts:</u></b>		
Total Real Estate Tax Revenues	=	Estimated Post-Development Taxable Assessed Value X Prior Year Tax Millage Rate
Total Earned Income Tax Revenues	=	(Estimated Earned Income of Residents X Prior Year EIT Rate)/ 2
Total Occupation Tax Revenues	=	(Total # of Residents - Total Number of Students) X Prior Year Occupation Tax Rate
Total Real Estate Transfer Tax Revenues	=	Estimated Total Property Sales Price X Prior Year Transfer Tax Rate
Permit Fee Revenues	=	(Based on current Township fee schedule as adopted by the Board of Supervisors)

Other Revenues (Per Capita Basis) (i.e. Fines, Forfeits, Interest, Liquid Fuel, Amusement and Parking Taxes, Local Services Tax)	=	(Prior Fiscal Year General Fund Revenues - Above Tax & Permit Fee Revenues)/Total Population of Last Census Year => Take Result X Estimated # of New Residents
Estimated Municipal Expenditures	=	Prior Fiscal Year General Fund Expenditures / Total Population of Last Census Year => Take Result X Estimated # of New Residents

<b><u>3. School District Fiscal Impacts:</u></b>		
Total Real Estate Tax Revenues	=	Estimated Post-Development Taxable Assessed Value X Prior Year Tax Millage Rate
Total Earned Income Tax Revenues	=	(Estimated Earned Income of Residents X Prior Year EIT Rate)/ 2
Total Occupation Tax Revenues	=	(Total # of Residents - Total Number of Students) X Prior Year Occupation Tax Rate
Total Real Estate Transfer Tax Revenues	=	Estimated Total Property Sales Price X Prior Year Transfer Tax Rate
Total Occupation Privilege Tax	=	(Total # of Residents - Total Number of Students) X Prior Year Occupation Privilege Tax Rate
Other Revenues (Per Capita Basis)	=	(Prior Fiscal Year General Fund Revenues from Local Sources - Above Tax Revenues)/Total Student Enrollment of Same Fiscal Year => Take Result X Estimated # of New Students
Estimated School District Expenditures	=	Prior Fiscal Year General Fund Expenditures / Total Student Enrollment of Same Fiscal Year => Take Result X Estimated # of New Students

**SECTION 5:** All other sections, parts, and provisions of Chapter 225, Zoning, shall remain in full force and effect as previously enacted.

**SECTION 6: Savings Clause.** The provisions of this Ordinance are severable. If any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decisions of the court shall not impair the validity of any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. It is hereby declared the intent of the Derry Township Board of Supervisors that this Ordinance would have been enacted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

**SECTION 7: Repealer.** Any specific provisions of Chapter 225, Zoning, or any other Township ordinance or resolution that is in direct conflict within this Ordinance, are hereby repealed to the extent of such conflict.

**SECTION 8: Effective Date.** This Ordinance shall become effective five (5) days after enactment.

**DULY ENACTED and ORDAINED** into law this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the Board of Supervisors of Derry Township, Dauphin County, Pennsylvania, in lawful session duly assembled.

ATTEST

BOARD OF SUPERVISORS  
DERRY TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA

\_\_\_\_\_  
Carter E. Wyckoff, Secretary

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E. Christopher Abruzzo, Chairman

*(Seal)*