

ORDINANCE NO. 2014- 2014-830
UPPER MERION TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING ORDINANCE, ARTICLE II, § 165-5, BY ADDING NEW DEFINITIONS RELATING TO DRIVE-THROUGH ESTABLISHMENTS; ARTICLE XXXI, BY ADDING NEW § 165-219.7 ENTITLED "DRIVE-THROUGH ESTABLISHMENTS"; AND ARTICLE XIX, "C-1 COMMERCIAL DISTRICTS," PURSUANT TO THE DEFINITIONS AND REGULATIONS RELATED TO DRIVE-THROUGH ESTABLISHMENTS

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. § 65101, *et seq.*, Upper Merion Township (the "Township") is authorized to make and adopt Ordinances it deems necessary for the proper management and control of the Township and welfare of the Township and its citizens that are consistent with the Constitution and the laws of the Commonwealth;

WHEREAS, the Board of Supervisors of Upper Merion Township has met the procedural requirements of 53 P.S. § 10101, *et seq.*, the Pennsylvania Municipalities Planning Code, for the adoption of the proposed ordinance, including holding a public hearing; and

WHEREAS, the Township, 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 of Upper Merion Township will be served by this amendment of the Upper Merion Township Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors for Upper Merion Township, and it is hereby ordained and enacted, by the authority of the same, to wit:

SECTION I. CODE AMENDMENT. THE UPPER MERION TOWNSHIP ZONING ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

- A. Article II, § 165-5, "Word Usage; Definitions" is amended by adding, in alphabetical order, the following definitions:**

DRIVE-THROUGH ESTABLISHMENT – A business establishment so developed that its retail or service character is dependent on providing a driveway approach for vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

BEVERAGE SHOP (SNACK AND BEVERAGE BAR (NON-ALCOHOLIC)) – A building measuring not more than 2,500 square feet of gross leasable area where beverages and light fare normally and customarily associated with coffee shops or tea rooms are served for on-site or off-site consumption and where the sales of such food shall not constitute more than forty percent (40%) of all sales. Food items shall consist of prepackaged items that are prepared and packaged off-site. Beverage shops may also offer for sale coffee beans, tea, containers, coffee or tea brewing equipment and other related products. A beverage shop shall not be considered a restaurant for any reason pursuant to this ordinance.

B. Article XXXI, “General Regulations,” is amended by adding new § 165-219.7 entitled “Drive-Through Establishments,” as set forth below:

§ 165-219.7. DRIVE-THROUGH ESTABLISHMENTS.

Drive-thru restaurants shall be permitted in the C-1, C-2, C-3 and SC Districts. For banking and retail uses, drive-throughs shall be deemed accessory uses and shall be permitted in the CO, C-1, C-2, C-3, SC, SM and SM-1 Districts, where those principal uses are permitted.

A. Locational standards.

1. Drive-through establishments shall be prohibited within five hundred feet (500') of one another when located on and where access is on the same side of a thoroughfare, unless they share a common driveway and there is no other access from the thoroughfare to the parcel where the drive-through restaurant is situated.
2. Minimum lot frontage on at least one street shall be one hundred and fifty feet (150') for all drive-through establishments, unless the drive-through establishment is located in a shopping area containing multiple buildings and shared parking facilities.

B. Landscaping and buffering.

1. All drive-through establishments shall have a minimum buffer area of fifteen feet (15') and meet the requirements of property line buffers as set forth in § 145-24.1.
 - (a) Any drive-through establishment that is situated on a commercial property with shared roadway access and shared parking facilities shall be exempt from this buffer requirement.
2. Any exterior speaker/microphone system or menu boards must be set back at least forty feet (40') from any perimeter property line and shall be effectively shielded to prevent the impact of noise and light on adjacent properties.

C. Frontage and street access. Ingress and egress shall meet the requirements of the Upper Merion Subdivision and Land Development Ordinance, as well as the following:

1. The subject property shall front on an arterial or collector road, and access shall not be taken from residential streets.
2. All driveway entrances and exits must be set back at least fifty feet (50') from an intersection, measured from the intersection of the street right-of-way to the nearest end of the curb radius.
3. The angle of the driveway intersection with the street shall be based upon safe traffic movements and shall be approved by the Township Engineer.
4. The minimum distance of any driveway entrance/exit to the property line shall be ten feet (10').
5. The minimum distance between driveways entrances/exits on the site shall be sixty five feet (65'), measured from the two closest driveway curbs.

D. Vehicle stacking lanes.

1. All stacking lanes shall be separated from the circulation lanes necessary for ingress, egress or access to required parking area(s) using landscaped islands, decorative pavement, pervious islands, curbing and/or painted lines.
2. All stacking lanes shall be distinctly identified as a vehicle stacking lane for the drive-through establishment.
3. All stacking lanes shall be a minimum of twelve feet (12') in width.
4. Stacking lanes may not extend into the required front yard setback and must be located a minimum of fifteen feet (15') from the perimeter rear and side property lines unless the drive through establishment is located in a shopping area containing multiple buildings and shared parking facilities.
5. All stacking lanes with separate ordering stations shall have a bypass (escape) lane a minimum of ten feet (10') in width located prior to the ordering station.
6. The stacking lane shall be separate from the driveway and shall not be used ingress and egress to the site.
7. Stacking distance.

- (a) *Restaurant*: Each stacking lane shall be a minimum of sixty feet (60') between the ordering station and pickup window and a minimum of one hundred feet (100') before the ordering station.
- (b) *Café*: Each stacking lane shall be a minimum of sixty feet (60') between the ordering station and pickup window and a minimum of sixty feet (60') before the ordering station.
- (c) *Other*: Each stacking lane shall be a minimum of sixty feet (60') before the service window or station.

8. The length of the stacking lanes shall be measured along the center line of the prescribed vehicular path.

E. Traffic study. A traffic impact study of the internal traffic patterns in the off-street parking area shall be completed and submitted to the Township in order to ensure safe access and control of traffic into and out of the establishment and convenient access to the development and nearby areas. The traffic impact study shall address the following issues:

- 1. Nature of the product or service being offered.
- 2. Method by which product or service is being offered (e.g., window service or brought to vehicle by employee).
- 3. Time required to service typical customer.
- 4. Arrival rate for patrons.
- 5. Peak demand hour.
- 6. Anticipated vehicular stacking required.
- 7. Anticipated traffic generation.

C. Article XIX, "C-1 Commercial Districts," § 165-106, "Use Regulations," is amended by revising Subsection A to read as follows:

- A. Retail establishment for the sale of dry goods, variety merchandise, clothing, foods, beverages, drugs, furnishings or other household supplies; sale and repair of jewelry, clocks, optical goods, musical instruments or scientific or professional instruments; florist shop; and beverage shop.

D. Article XIX, "C-1 Commercial Districts," § 165-106.E(2) is amended by deleting paragraphs (a), (b) and (c) and is revised to read as follows:

- (2) Drive-thru restaurants shall be permitted in accordance with the provisions of Article XXXI, § 165-219.7, "Drive-through establishments."

SECTION II. REPEALER.

All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION III. REVISIONS.

The Upper Merion Township Board of Supervisors does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

SECTION IV. 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 V. EFFECTIVE DATE.

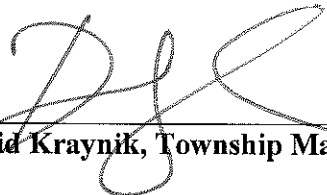
This amendment shall become effective five (5) days after date of adoption.

SECTION VI. FAILURE TO ENFORCE NOT A WAIVER.

The failure of Upper Merion Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

ORDAINED AND ENACTED by the Board of Supervisors for Upper Merion Township, Montgomery County, Pennsylvania, this 18th day of September, 2014.

ATTEST:



David Kraynik, Township Manager

**UPPER MERION TOWNSHIP
BOARD OF SUPERVISORS:**

By: 

Gregory Waks, Chairman

Advertised Proposed Ordinance in Times Herald: August 27, 2014
and September 3, 2014.

Proof of Publication: September 3, 2014.

Hearing Held: September 18, 2014

Ordinance Adopted September 18, 2014 as Township Ordinance 2014-830.

Ordinance Entered: September 18, 2014.