

ORDINANCE NO. _____
UPPER MERION TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE UPPER MERION TOWNSHIP ZONING CODE, CHAPTER 165, TO REMOVE THE EXEMPTION FOR CERTAIN MAN-MADE STEEP SLOPES FROM THE REGULATIONS OF STEEP SLOPES; TO HAVE THE VOLUNTARY DEMOLITION OF A PORTION OF A STRUCTURE TO BE AN ABANDONMENT OF A NONCONFORMITY FOR THAT PORTION OF THE STRUCTURE; TO REMOVE THE ABILITY TO CONVERT SINGLE-FAMILY DETACHED DWELLINGS INTO TWO-FAMILY SEMIDETACHED OR MULTIFAMILY DWELLINGS BY SPECIAL EXCEPTION; TO DELETE ARTICLE XXXIII, DEVELOPMENT PLANS, AND ARTICLE XIV, CLUSTER DEVELOPMENT OVERLAY, TO DELETE SECTION 165-247, TRAFFIC IMPACT STUDY REQUIRED, AND TO AMEND THE DEFINITION OF “INTERIOR SIGN”; TO PERMIT HOSPITALS IN THE SC DISTRICT AND PERFORMING ARTS FACILITIES AND MOVIE THEATERS IN THE SC DISTRICT BY CONDITIONAL USE; AND AMENDING CHAPTER 145, SUBDIVISION OF LAND, 145-25, SUBMISSION REQUIREMENTS, TO REQUIRE A PRELIMINARY PLAN TO BE FILED AND APPROVED PRIOR TO A FINAL PLAN SUBMISSION; AND SECTION 145-27.B, PRELIMINARY PLAN REQUIREMENTS, TO REQUIRE A TRAFFIC IMPACT STUDY TO BE SUBMITTED

WHEREAS, the Pennsylvania Second Class Township Code and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, *et seq.*, authorizes the Board of Supervisors of Upper Merion Township (“Board”) to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care and control of Upper Merion Township (“Township”) and the maintenance of peace, good government, health and welfare of the Township and its citizens;

WHEREAS, the Board desires to amend the Township Zoning Code, Chapter 165, and the Township’s Subdivision of Land Chapter, Chapter 145, to make comprehensive changes throughout to better maintain the peace, good government, health and welfare of the Township and its citizens;

WHEREAS, the Board has met the procedural requirements of the Pennsylvania Municipalities Planning Code, for the adoption of the proposed ordinance, including advertising, submission to the planning commissions, and holding a public hearing; and

WHEREAS, the Board, 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 and guests of the Township will be served by this amendment of the Upper Merion Township Zoning Code and Subdivision of Land Chapter as set forth below;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Merion Township, Montgomery County, Pennsylvania, as follows:

Section I. Zoning Code Amendment. Chapter 165, Zoning, of the Upper Merion Township Code, is hereby amended as follows:

A. Section 165-232.2, Application of regulations, Article XXXIIA, SS Steep Slope District, is hereby amended to provide as follows:

The intent of this article is to promote the preservation of natural features, maintain the ecological balance of the environment, and protect property and life from dangers presented by steep slopes. The requirements of all zoning districts shall be modified in accordance with the provisions of this article on all land having a slope of 15% or more as delineated on a plan which meets the requirements of a preliminary or final plan as specified in Chapter 145, except for land that qualifies as exempt below. In order to be exempt from the provisions of Article XXXIIA herein, the applicant must provide by credible evidence to the Board of Supervisors at the time of conditional use, subdivision or land development approval that the steep slope in question meets the following conditions. In any case, grading plans and erosion and sedimentation control plans shall still be prepared and submitted to the Township for their approval at the appropriate time.

~~A. The slope was created in connection with a previous alteration to the grades of the property and is not naturally occurring and was man-made after 1940.~~

B. A change in the slope will not present an added risk of flooding, collapse, erosion, or other danger to the existing or future inhabitants or structures on the property or any other properties, roads, or public services.

B. Section 165-232.3, Definitions, Article XXXIIA, SS Steep Slope District, is hereby amended to provide for the following amended definition:

AREA OF SIGNIFICANT SLOPE Those areas of a parcel containing ~~naturally occurring~~ slopes of 25% or greater, occupying 1,000 or more contiguous square feet.

C. Section 165-199.B, Continuation; extension; restoration; abandonment; lots nonconforming as to area and width regulations, Article XXX, Nonconforming Buildings, Structures and Uses, is hereby amended to provide as follows:

B. Extension

(1) Any lawful nonconforming use of a portion of a building may be extended throughout the entire building area in existence upon the date of the subsequent amendment which rendered the use nonconforming.

(2) ~~Any building containing a~~ A lawful nonconforming use may be expanded ~~extended upon the lot occupied by such~~ through no more than 25% of the area of

an extension, expansion, or alteration of a building constructed after the effective date of this chapter or the date of the subsequent amendment which rendered the use nonconforming, and further provided that the expanded or altered building conforms with all height, setback, yard, and coverage requirements of the district in which the use is located. ~~provided that the area of such building shall not be increased by more than a total of 25% of the area of such building existing on the effective date of this chapter or the date of the subsequent amendment which rendered the use nonconforming and further provided that any structural alteration, extension or addition shall conform to all height, setback, yard and coverage requirements of the district in which the use is located. Notwithstanding the above, a single family dwelling which exists as a noneconforming use may alter, extend or add to the structure in a manner which does not meet the height, setback, yard or coverage requirements when permitted by special exception.~~

(3) Nonconforming structures, including buildings, being used for a conforming use may continue in the current form of the structure and may be extended or altered if the extension or alteration does not increase the nonconformity of the building or structure with respect to the height, setback, yard or coverage requirements of the district in which it is located. ~~Notwithstanding the above, any single family dwelling which exists as a nonconforming structure may be altered, extended or added to in a manner which does not meet height, setback, yard or coverage requirements when authorized as a special exception.~~

(4) The voluntary demolition, razing, or removal of a nonconforming structure or building, or portion thereof, shall be considered an abandonment of the nonconforming structure or building or the nonconforming portion of such building or structure. In such an instance, a nonconforming structure or building shall not be permitted to be replaced, reconstructed, or rebuilt with another nonconforming structure or building or otherwise maintain any preexisting nonconformity.

D. Section 165- 212, Conversion of dwellings, is hereby deleted in its entirety and held in reserve.

E. Article XXVII, Signs, Section 165-164, Definitions, is hereby amended to amend the following definitions:

Interior Sign – Any sign placed within a building but not including window signs as defined by this article. Interior signs are not regulated by this article unless the sign is a Window Sign or reasonably visible outside of the building. If an interior sign is reasonably visible outside of the building, the interior sign shall not have the characteristics of an Animated Sign; shall not blink, flash, have animated or moving text, photos or transitions; shall not cause a distraction to motorists; shall not have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance; and shall be turned off when the space where the interior sign is located is closed.

F. Article XXXIII, Development Plans, is hereby deleted in its entirety and shall be held in reserve.

G. Section 165-247, Traffic impact study required, is hereby deleted in its entirety and shall be held in reserve.

H. Article XIV, Cluster Development Overlay, is hereby amended in its entirety and held in reserve.

I. Table CD.1 Permitted Uses, Use Regulations for Commercial Districts, is hereby amended to provide for the following use amendment:

1. In the Shopping Center District, the use of “Performing arts facilities and movie theaters” shall be noted a Permitted (P) with a footnote to indicate: “Permitted by Conditional Use.”

J. Section 165-122, Use Regulations, in the SC Shopping Center District is hereby amended to provide for a new subsection G to provide for the use of “Hospitals” as follows:

G. Hospitals

Section II. Subdivision of Land Chapter Amendment. Chapter 145, Subdivision of Land, of the Upper Merion Township Code, is hereby amended as follows:

A. Section 145-25, Submission Requirements, shall be amended to provide an amended subsection C and a new subsection D as follows:

C. All plans, drawings, data, specifications and tabulations that are supplementary to the plan submission shall be considered an integral part of the submission. The Board of Supervisors shall not review plans until all required information is submitted. ~~Plans may be submitted for either preliminary or final approval.~~ A preliminary plan shall be submitted and approved by the Board of Supervisors prior to the submission of a final plan.

D. A traffic impact study shall be submitted with the submission of preliminary plans for the development of a parcel of land that is or will be 10 acres or greater in size or shall be submitted as a supplement to the preliminary plans if the parcel is or will be less than 10 acres in size but located in an area determined by the ~~Board of Supervisors~~ Township Traffic Engineer to be a congested area. The traffic impact study shall show the projected number of vehicles to be utilizing the premises on a daily basis, the existing traffic volume on all streets and roads abutting the premises, the projected volume of traffic to be added as the result of the development, the capacity of existing streets and intersections in the immediate vicinity of the development, improvements which are necessary to reduce the impact of the development upon the area in which the property is located and such other information as shall be required by the Township Code ~~the Board of Supervisors~~.

B. Section 145-27.B, Preliminary Plan Requirements, shall be amended to provide as follows:

B. The applicant shall submit a ~~study and analysis of traffic impact study~~, as required by Article ~~XXXIV~~ of Chapter ~~165~~, Zoning.

Section III. Repealer. In addition to the above, all other ordinances or parts of ordinances that are inconsistent herewith, are hereby repealed. Further, it is understood and intended that all other sections, parts, provisions, and ordinances that are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

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 Ordinance shall take effect immediately upon its legal enactment.

Section VI. Failure to Enforce Not a Waiver. The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

Section VII. Enactment. The Board of Supervisors of Upper Merion Township, in the County of Montgomery, Commonwealth of Pennsylvania does hereby approve and ordain and this Ordinance for the Township of Upper Merion, this _____ day of _____, 2023.

ATTEST:

**UPPER MERION TOWNSHIP
BOARD OF SUPERVISORS**

By: _____
Anthony Hamaday, Township Secretary

By: _____
Tina Garzillo, Chairperson of the
Upper Merion Township
Board of Supervisors