

**ORDINANCE NO. \_\_\_\_\_**  
**UPPER MERION TOWNSHIP**  
**MONTGOMERY COUNTY, PENNSYLVANIA**

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**AN ORDINANCE OF THE SUPERVISORS OF THE TOWNSHIP OF  
UPPER MERION TO AMEND THE TOWNSHIP'S ZONING  
ORDINANCE CHAPTER 165, ARTICLE XXXVIII, SECTION 165-266  
"DEFINITIONS" TO AMEND THE TITLE AND DEFINITION OF  
"ADULT BOOKSTORE OR ADULT VIDEO STORE" AND THE  
DEFINITION OF "SEXUALLY ORIENTED BUSINESS" AND TO  
AMEND SECTION 165-267 "CLASSIFICATION"**

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**WHEREAS**, the Board of Supervisors, pursuant to the Municipalities Planning Code ("MPC"), 53 P.S. §§ 10101, *et seq.*, has heretofore enacted a Zoning Ordinance, codified at Chapter 165, of the Code of Ordinances of the Township of Upper Merion ("Township"); and

**WHEREAS**, the Board of Supervisors have met the procedural requirements of the MPC and the Pennsylvania Second Class Township Code, 53 P.S. §65101, *et seq.*, for the adoption of this proposed Ordinance, including advertising and holding a public hearing; and

**WHEREAS**, the Second Class Township Code authorizes the Board of Supervisors to make, amend, and adopt Ordinances that are consistent with the Constitution and Laws of the Commonwealth that it deems necessary for the proper management and control of the Township and the health, safety, and welfare of its citizens; and

**WHEREAS**, the Board of Supervisors has determined that it is necessary for the proper management and control of the Township and to support the health, safety, and welfare of its citizens to enact legislation as to sexually oriented businesses.

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

**SECTION 1.    CODE AMENDMENTS.**

- A. CHAPTER 165, ARTICLE XXXVIII. Definitions, §165-266, is hereby amended to revise the title and definition of "ADULT BOOKSTORE OR ADULT VIDEO STORE" and the definition of "SEXUALLY ORIENTED BUSINESS" as follows:**

**ADULT STORE**

- A. A commercial establishment which offers for sale or rental for any form of consideration any one or more of the following:
  - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
  - (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
  
- B. A commercial establishment may have business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult store.

**SEXUALLY ORIENTED BUSINESS**

An adult arcade, adult store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

**B. CHAPTER 165, ARTICLE XXXVIII. Classification, §165-267, is hereby amended to revise the classification of “B. Adult bookstores or adult video stores.”, as follows:**

- B. Adult stores.

**SECTION 2. REPEALER.** All Ordinances or parts 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 3. 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 4. SEVERABILITY.** To the extent that any provision of this ordinance is deemed to be unlawful, such provision shall be severable from the remainder of provisions which are not deemed to be unlawful, which lawful provisions shall continue in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This amendment shall become effective five (5) days after date of adoption.

**SECTION 6. 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.

**ENACTED AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, **2021** by the Board of Supervisors of Upper Merion Township.

ATTEST:

Upper Merion Township Board of Supervisors

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William Jenaway, Chair