

ORDINANCE NO. 2024-
UPPER MERION TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF UPPER MERION AT PART II [GENERAL LEGISLATION], CHAPTER 165 [ZONING], BY AMENDING ARTICLE XXVII [SIGNS], TO PROVIDE STANDARDS FOR MURALS IN CERTAIN SPECIFIED LOCATIONS IN THE TOWNSHIP.

WHEREAS, pursuant to the Second Class Township Code, 53 P.S. 65101 *et seq.*, Upper Merion Township (“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 deems it to be in the best interest and general welfare of the citizens and residents of the Township to amend the Upper Merion Township Zoning Ordinance of 1942, as amended, to provide for new and alternative types of commercial entertainment venues than traditionally developed;

WHEREAS, the Board of Supervisors of Upper Merion Township has met the procedural requirements of 53 P.S. § 10101, *et seq.* of 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 Code.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Upper Merion Township Board of Supervisors, and it is hereby ordained and enacted, by the authority of the same, to wit, that the Township’s Code is amended as follows:

SECTION 1: CODE AMENDMENTS. The Upper Merion Township Code is hereby amended as follows:

A. Amendment to Chapter 165, Section 165-5, Word usage, Definitions, shall be amended to add or amend the following definitions:

ANCHOR STORE:

A mercantile use structure physically connected to a regional shopping center and containing at least fifty thousand (50,000) square feet of interior floor area with direct entrances to both the outdoor/interior of the Anchor Store and to the interior of the adjoining regional shopping center area.

SIGN:

Any identification, description, illustration or device, illuminated or non-illuminated, which is visible from any public place or is located on private property and exposed to the public and which intends to promote a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national, state or local governmental flags. A mural shall not be considered a sign.

B. Amendment to Chapter 165 [Zoning], Article XXVII [Signs], Section 168 [Business Signs], Subsection M [Business Signs in the SC Shopping Center Districts], Subpart (3) [Regional Shopping Center Signs].

The Code of Upper Merion Township, Part II [General Legislation], Chapter 165 [Zoning], Article XXVII [Signs], Section 168 [Business Signs], Subsection M [Additional Signs in the SC Shopping Center Districts], Subpart (3) [Regional Shopping Center Signs] is hereby restated and amended as follows to correct a typographical error:

M(3). Regional shopping center signs. In a regional shopping center, as defined by §165-5, the following signage shall be permitted by conditional use in addition to signage permitted by ~~§165-167~~ §165-168.

C. Creation to Chapter 165 [Zoning], Article XXVII [Signs], Section 168 [Business Signs], Subsection S [Murals in the SC Shopping Center Districts]

The Code of Upper Merion Township, Part II [General Legislation], Chapter 165 [Zoning], Article XXVII [Signs], Section 168 [Business Signs], Subsection S [Murals in the SC Shopping Center Districts]:

S(1). Murals. Within a regional shopping center, artistic murals shall be permitted by conditional use for permitted performing arts facilities and movie theater uses, in addition to all such other signage otherwise permitted herein, and shall not count toward the total allowable signage area for a building or regional shopping center, provided such mural(s):

- i. Shall be located only on a building or structure occupied by an anchor store of the regional shopping center which, for purposes of this section, shall be understood to be an occupant space providing public access from at least one entrance directly from the exterior and at least one entrance directly to the interior of the remainder of the regional shopping center;
- ii. Shall be commissioned and maintained by the owner or occupant of the structure or building upon which it is painted for the use and benefit of that occupant only and not other occupants of the regional shopping center;

- iii. Murals that tastefully depict the history, heritage, culture, or events of the local area are to be encouraged. The colors and themes of murals are encouraged to be compatible with nearby historical landmarks, buildings, and sites and should complement the prevailing architectural style and ambiance of the surrounding area;
- iv. Shall not contain written words, except for the nameplate of the artist. Nameplates shall not exceed two square feet;
- v. Shall not contain trademarked images or logos.
- vi. Shall not contain political, pornographic, or violent themes;
- vii. Shall not contain video, animated, interior-lit elements or regularly changeable copy, except to the extent a mural may be painted or repainted;
- viii. Shall be painted directly onto the surface of the building or otherwise applied via decorative panels secured directly to the building surface;
- ix. Shall not protrude beyond the surface of the wall(s) upon which it is painted or applied in height or length;
- x. Shall not be located within 100 feet from any two existing murals, measured from the edge of the closest façade containing a mural to the edge of the façade for the proposed mural;
- xi. Shall cover a maximum of 33% of the façade upon which it is painted or attached, exclusive of doors and windows;
- xii. Where an occupant's building has more than one façade facing a public way, a maximum of two (2) murals shall be permitted, subject to the following:
 - a. The primary mural shall cover a maximum of 33% of the total primary façade upon which it is painted or attached, exclusive of doors and windows. Coverage is measured solely as painted areas and does not include any potential negative space in between painted areas;
 - b. The secondary mural shall cover a maximum of 33% of the total secondary façade upon which it is painted or attached, exclusive of doors and windows. Coverage is measured solely as painted areas and does not include any potential negative space in between painted areas;
- xiii. Shall be subject to a maintenance covenant with the Township, in a form acceptable to the Township Solicitor which shall include, *inter alia*, provisions for the maintenance, repair, replacement, and removal of the mural(s).

S(2). Mural conditional use application and review.

- i. No person shall install, construct, paint or modify a mural without first submitting a conditional use application and obtaining approval from the Board of Supervisors.
- ii. An application for a mural shall contain the following minimum information:
 - a. Five copies of a color sketch of the proposed mural drawn to scale;
 - b. Five copies of a sketch drawn to scale of the proposed building to be covered by the mural;
 - c. A calculation of the mural's total coverage areas in square feet and as a percentage of the façade
 - d. A written description of the mural, including subject matter, type of paint to be used, and expected lifespan and maintenance plan for the mural;
 - e. Digital copies of all materials (Flash Drive, CD)
- iii. The application process will follow the conditional use procedure as outlined in § 165-219.1

SECTION 2. REPEALER AND RATIFICATION.

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. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

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 Ordinances, including this provision.

SECTION 4. SEVERABILITY

In the event that any section, sentence, clause, or 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 provisions of the Ordinance, and the Ordinance shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 13th day of June 2024, by the Upper Merion Township Board of Supervisors.

ATTEST:

**UPPER MERION TOWNSHIP
BOARD OF SUPERVISORS**

Anthony Hamaday, *Secretary*

Tina Garzillo, *Chair*

Advertised Ordinance in Times Herald: _____ and _____

Proof of Publication Dated: _____

Hearing Held: _____

Ordinance Adopted: _____ as Ordinance No. 2024-_____

Ordinance Entered: _____