

**TOWNSHIP OF UPPER MACUNGIE**  
**Lehigh County, Pennsylvania**

**ORDINANCE NO. 2024-05**  
**(Duly Adopted May 2, 2024)**

**AN ORDINANCE REPEALING PORTIONS OF ORDINANCE NO. 2022-04 OF THE TOWNSHIP OF UPPER MACUNGIE CODE OF ORDINANCES, WHICH CREATED A MIXED-USE OVERLAY ZONING DISTRICT**

**WHEREAS**, the Township of Upper Macungie through the adoption of Ordinance No. 2022-04 on April 7, 2022, attached hereto as “Exhibit A”, created a Mixed-Used Overlay District within its Zoning Ordinance; and

**WHEREAS**, the intent of Ordinance No. 2022-04 was to encourage the use of mixed-used developments within Upper Macungie Township; and

**WHEREAS**, since its adoption, the Township has received a limited number of applications utilizing the Mixed-Use Overlay and of those applications, none have satisfied the initial vision of the Mixed-Use Overlay; and

**WHEREAS**, the Township is undertaking a comprehensive rewrite of both its Zoning and Subdivision and Land Development Ordinances with the intent of adopting mixed-use provisions within the new ordinance; and

**WHEREAS**, the Township desires to repeal portions of Ordinance No. 2022-04, thereby eliminating the Mixed-Use Overlay District.

**NOW, THEREFORE, BE IT ADOPTED AND ORDAINED** by the Board of Supervisors of the Township of Upper Macungie, County of Lehigh, Commonwealth of Pennsylvania, as follows:

**SECTION 1. BODY OF THE ORDINANCE**

1. Ordinance No. 2022-04 shall be repealed in its entirety, with the exception of those changes made to §27-202. Terms Defined.

**SECTION 2. EFFECTIVE DATE**

This Ordinance shall become effective five (5) calendar days following adoption.

**SECTION 3. SEVERABILITY**


In the event that any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

**SECTION 4. REPEALER**

All other Ordinances or parts of Ordinances inconsistent herewith shall be and the same expressly are repealed.

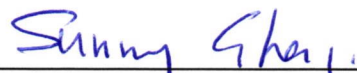
**ENACTED AND ORDAINED** the 2<sup>nd</sup> day of May, 2024 by the Board of Supervisors of the Township of Upper Macungie, Lehigh County, Pennsylvania, in lawful session duly assembled.

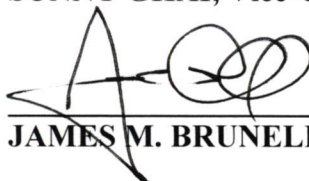
**ATTEST**

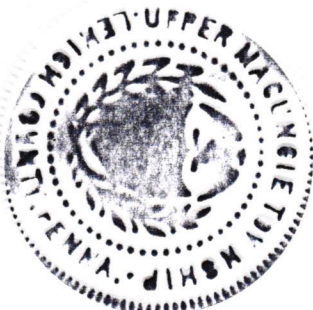
  
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**JAZMIN VAZQUEZ, Secretary**

**UPPER MACUNGIE TOWNSHIP  
BOARD OF SUPERVISORS**

  
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**JEFFREY FLEISCHAKER, Chairman**

  
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**SUNNY GHAI, Vice-Chairman**

  
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**JAMES M. BRUNELL, Member**





# **“EXHIBIT A”**

**TOWNSHIP OF UPPER MACUNGIE  
Lehigh County, Pennsylvania**

**ORDINANCE #2022-04  
(Duly Adopted April 7, 2022)**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF UPPER MACUNGIE, LEHIGH COUNTY, PENNSYLVANIA, AMENDING CHAPTER 27 (ZONING) OF THE TOWNSHIP OF UPPER MACUNGIE CODE OF ORDINANCES, KNOWN AS THE UPPER MACUNGIE TOWNSHIP ZONING ORDINANCE AND THE SECTIONS OF CHAPTER 27 AS HEREINAFTER SET FORTH; SPECIFICALLY, THIS ORDINANCE AMENDS:**

**§ 27-202 Terms Defined**

**§ 27-306 Permitted Uses Table (Residential & Business Districts)**

**§ 27-1100 Mixed-Use Overlay**

**ALL OF WHICH ARE FULLY SET FORTH IN THE BODY OF THIS ORDINANCE AND ARE IN ACCORDANCE WITH THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, ACT 247 OF 1968, P.L. 805, NO. 247, AS REENACTED AND AMENDED, 53 P.S. §10609**

**WHEREAS**, Section §27-108 of the Upper Macungie Township Zoning Ordinance provides that “the Board of Supervisors may amend, challenge or repeal any or all portions of this Chapter on its own motion or upon agreeing to hear a written request for any person, entity or the Planning Commission”; and

**WHEREAS**, the Mixed-Use Overlay is not a district but an overlay that will be applied to the following districts: Medium Density Residential District – R4, Medium High Density Residential District – R5, Highway Commercial District – HC, Neighborhood Commercial District – NC, and Limited Light Industrial Park District – LI(L); and

**WHEREAS**, it is the Intention of the Upper Macungie Township Board of Supervisors to provide for a Mixed-Use Overlay within the Medium Density Residential District – R4, Medium High Density Residential District – R5, Highway Commercial District – HC, Neighborhood Commercial District – NC, and Limited Light Industrial Park District – LI(L), to encourage diversity of compatible land uses, such as commercial, residential, office, institutional, and other appropriate uses, on one site, in order to create pedestrian-oriented neighborhoods that complement the existing neighborhoods in the Township through increasing pedestrian traffic, reducing vehicular traffic, promoting innovative use of space, energy-efficient design, conservation of land, and promoting infill development, and

**WHEREAS**, it is the intent of this amendment to establish reasonable standards for development size, uses, and regulations, lot and building standards, streets and alleys, parking, landscaping and screening, and open space for the Mixed-Use Overlay within the Medium Density Residential District – R4, Medium High Density Residential District – R5, Highway Commercial District – HC, Neighborhood Commercial District – NC, and Limited Light Industrial Park District – LI(L), and

**WHEREAS**, the Upper Macungie Township Board of Supervisors has identified certain requirements related in whole, or in part, which are in need of defining and amending and/or updating; and

**WHEREAS**, the Upper Macungie Township Board of Supervisors finds that the proposed amendments will promote, protect, and facilitate the public health, safety, and welfare; and

**WHEREAS**, pursuant to Section 609 of the Municipalities Planning Code, 53 P.S. § 10609, the Township of Upper Macungie is authorized and empowered to enact amendments to the Upper Macungie Township Zoning Ordinance after public hearing thereon pursuant to public notice; and

**WHEREAS**, the Board of Supervisors of the Township of Upper Macungie has conducted a public hearing pursuant to public notice concerning the following amendments to the Upper Macungie Township Zoning Ordinance; and

**WHEREAS**, after public hearing pursuant to public notice, the Board of Supervisors of the Township of Upper Macungie desires to ordain and enact the amendments to the Upper Macungie Township Zoning Ordinance set forth hereinafter.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Upper Macungie, County of Lehigh, Commonwealth of Pennsylvania, as follows:

**SECTION 1. DELETIONS, AMENDMENTS, INSERTIONS AND CHANGES**

The following Sections or parts thereof denoted by Section numbers are added, with such additions being denoted by the word “NEW” preceding the addition which shall be denoted by bold text. **(bold text)**

For purposes of Codification, all Sections noted herein follow the Sections as set forth in the Code of Ordinance of the Township of Upper Macungie, revised through June 3, 2021.

## SECTION 2. BODY OF THE ORDINANCE

### CHAPTER 27 ZONING

#### PART 2 DEFINITIONS

##### § 27-202. Terms Defined.

**“NEW” Coffeehouse:** an establishment that primarily serves coffee or similar brewed beverages of various types (e.g. espresso, latte, cappuccino)

**“NEW” Microbrewery, Brewery:** A facility licensed by the Pennsylvania Liquor Control Board comprising the building or buildings where malt or brewed beverages are manufactured on site including, without limitation, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales and administrative office functions, and may include one or more Tasting Areas, Promotional Events, and Social Events. A Microbrewery may sell, transport, and deliver malt beverages to various off-site locations as permitted by the Pennsylvania Liquor Control Board.

**“NEW” Distillery:** A facility which produces by distillation spirits for consumption, the sales and distribution of which are subject to regulation by the Pennsylvania Liquor Control Board. A distillery, for the purposes of this section, includes fermenting, distilling, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, administrative office functions, and may include tasting and promotional events.

**“NEW” Winery:** A bonded winery facility comprising the building or buildings used to convert fruit juices (all or part of which are produced on the property) to wine, and to age, bottle, store, distribute and sell said wine. A winery, for the purposes of this section, includes crushing, fermenting and refermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, administrative office functions, and may include tasting and promotional events.

**“NEW” Town Square:** an open public space in the center of a development, or town, used for community gatherings.

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**PART 3 DISTRICTS**

**§ 27-306. Table of Permitted Uses by District.**

Residential Districts								
	RU3	RU1.5	R1	R2	R3	R4	R5	OSP
“NEW” Mixed-Use Overlay (§27-1100)	N	N	N	N	N	P	P	N

Business Districts						
	NC	HC	LI	LI(L)	GI	RT
“NEW” Mixed-Use Overlay (§27-1100)	P	P	N	P	N	N

*(\* Note to Editor – for purposes of codification, the above rows should be inserted at the beginning of their respective district tables prior to the first listed use, as the overlay is intended to apply to the entire district and is not specific to one use.)*

**“NEW” PART 11 MIXED USE OVERLAY DEVELOPMENT**

**§ 27-1100. Intent.** The intent of the mixed-use overlay is to encourage diversity of compatible land uses, such as commercial, residential, office, institutional, and other appropriate uses, on one site, in order to create pedestrian-oriented neighborhoods that complement the existing neighborhoods in the Township through increasing pedestrian traffic, reducing vehicular traffic, promoting innovative use of space, energy-efficient design, conservation of land, and promoting infill development, in accordance with the Upper Macungie Township Comprehensive Plan.

**§ 27-1101. Applicability.**

An applicant may submit an application under the Mixed-Use Overlay if the subject tract meets the criteria set forth in this section. A sketch plan shall be submitted identifying these requirements and conform to all requirements of the Zoning Ordinance and Subdivision and Land Development Ordinance relating to dimensional requirements and design standards except as they may be altered by this Part.

- 1. Location.** The Mixed-Use Overlay shall apply to the lands in the Medium Density Residential (R4), Medium High Density Residential (R5), Highway Commercial (HC), Neighborhood Commercial (NC), and Limited Light Industrial Park LI(L) Zoning Districts.



2. **Minimum Development Size.** To be able to utilize the Mixed-Use Overlay, a development shall contain five (5) acres or more. If a proposed development falls outside of the overlay, it may be considered for designation, by the Board of Supervisors, if it will expand or continue an abutting development already approved under this section.
3. **Maximum Permitted Residential Density.** There shall be no more than fifteen (15) dwelling units per acre for the gross tract area if the applicant proposes single family detached dwellings. There shall be no more than twenty-five (25) units per acre if the applicant proposes apartments or multi-family dwellings. If the applicant is proposing a mix of single-family dwellings and multi-family dwellings, there shall be no more than twenty (20) units per acre.

**§ 27-1102. Uses & Regulations.**

**1. General Design Standards and Provisions**

**A. Use.**

- (1) The entire area of the Mixed-Use Development shall be divided into blocks, streets, alleys, lots, and natural open space or recreation areas.
- (2) Nonresidential uses shall be located external to the street frontages while residential uses shall be located in and along internal streets, roads, or alleys.
- (3) Nonresidential and residential uses shall be connected via internal pathways and/or sidewalks to promote walkability.
- (4) No More than 70% of the Mixed-Use Development shall be residential uses.
- (5) Walkable designs for pedestrians shall be a priority, and where applicable, multifamily apartment dwellings and townhouse dwellings shall have an interconnected street and walkway system to produce a safe, comfortable pedestrian environment which is open to the public.
- (6) Permitted Uses include:
  - (a) Single-family (attached and detached house lots)
  - (b) Multifamily dwellings (apartments)
  - (c) Retail and commercial establishments to include the retail sale of items such as household merchandise, food & beverage products, general merchandise, clothing, prepared and packaged foods, grocery items, deli products, flowers, beverages, pharmaceuticals, medical supplies, household supplies & furnishings, jewelry, optical goods, musical items, and antiques.

- (d) **Personal Care Services as defined in §27-306**
  - (e) **Personal fitness center(s)**
  - (f) **Child/adult care facilities**
  - (g) **Bank or financial institutions**
  - (h) **Business, medical, or professional office(s)**
  - (i) **Restaurants, breweries, distilleries, wineries, coffeehouse, tearoom, café, confectionary, bakery, or similar establishment serving food**
  - (j) **Hotel**
  - (k) **Veterinary clinic**
  - (l) **Emergency services**
  - (m) **Signs in accordance with Part 7 of the Upper Macungie Township Zoning Ordinance**
- (7) **Uses permitted by Conditional Use**
- (a) **Restaurant with drive-through service and/or that primarily involve the delivery of ready-to-eat foods (§27-402)**
- (8) **Uses specifically prohibited include:**
- (a) **Storage as a principal use**
  - (b) **Car washes**
  - (c) **Automotive sales or service**
  - (d) **Adult entertainment establishments**
  - (e) **Sanitary landfills or transfer stations**
  - (f) **Billboard signs**
  - (g) **All Industrial Uses listed in Section 27-306 of the Upper Macungie Township Zoning Ordinance**
- (9) **No uses shall be conducted inside or under temporary structures unless otherwise permitted.**

- (10) A minimum of 10% of the gross land area of the land considered for designation into the Mixed-Use Overlay shall be designated as Common/Open Space.

**B. Lots & Buildings.**

- (1) All lots shall share a frontage with a street or square.
- (2) No residential lots shall have direct access on or to a collector or arterial street.
- (3) All buildings, except accessory structures, shall have their main entrance opening to a street or town square.

**C. Streets & Alleys.**

- (1) All streets and alleyways in the proposed development shall remain private.
- (2) Streets shall provide access to tracts and lots.
- (3) All streets and alleys shall end at other streets within the development and connect to existing and proposed through streets outside the development whenever possible.
- (4) Utilities shall be underground and located along alleys wherever possible. Alternative energy sources are strongly encouraged to be used throughout the development
- (5) Architecturally appropriate street lighting shall be placed throughout the development. Street lighting standards shall be in accordance with the Upper Macungie Township Subdivision & Land Development Ordinance and the Upper Macungie Township Zoning Ordinance.
- (6) To allow access for emergency response vehicles, all streets, roads, and driveways serving the development shall have a minimum paved width of thirty (30) feet, with the exception of alleyways which will have a minimum of twenty-four (24) feet. In the event the highest roof surface exceeds thirty (30) feet, alleyways shall have a minimum of twenty-six (26) feet.

**D. Parking.**

- (1) Parking lots shall be located at the rear or side of buildings to the maximum extent possible and shall be screened by low walls, fences, hedges, or other vegetation screenings and shall meet the requirements of Section §27-803.4 in its entirety.
- (2) Parking lots or parking structures shall not be adjacent to town squares.

- (3) **Abutting parking lots shall have internal vehicular connections to one another.**
- (4) **Bicycle parking is strongly encouraged to promote alternative forms of transportation. For every five (5) bicycle parking spaces provided on-site, a reduction of one automobile parking space may be allowed up to 5% of the total required automobile parking. Bicycle parking may be on the sidewalk, as long as five (5) feet of width of the sidewalk remains available for safe and efficient movement of pedestrians.**
- (5) **Joint parking is strongly encouraged where a parking lot can serve more than one use. The total number of spaces required shall be based on the one use of the development requiring the most spaces and the applicant must prove to the satisfaction of the Township Zoning Officer that the proposed parking is appropriate.**
- (6) **Raised pedestrian crosswalks shall be provided at major store entrances and major pedestrian street crossing areas.**
- (7) **No parking lot shall be further than the property being served as provided for below:**
  - (a) **Residential Use: 200 feet**
  - (b) **Nonresidential Use: 300 feet**

**E. Landscaping & Screening.**

- (1) **A Landscaping plan shall be required**
- (2) **Landscape design standards shall adhere to the Upper Macungie Township Subdivision & Land Development Ordinance and the Upper Macungie Township Zoning Ordinance.**

**2. General Use Regulations**

**A. Single-Family Residences.**

- (1) **Lots & Buildings.**
  - (a) **Buildings on single-family residential lots shall have setbacks in accordance with the Medium High Residential (R5) Zoning District unless otherwise specified within this Section.**
  - (b) **All accessory structures shall be setback at least ten (10) feet from any property line.**
  - (c) **The maximum building coverage for single-family residential lots shall be 50%.**

(d) The maximum impervious coverage for single-family residential lots shall be 70%.

(e) The maximum height for buildings on a single-family residential lot shall be thirty-five (35) feet.

**(2) Parking & Access.**

(a) For single-family attached homes (townhouses) no off-street parking spaces shall be allowed within the front yard setback.

(b) If access is from the rear of the lot, it shall be accessed by an alley no less than twenty (20) feet in width.

**B. Multi-Family Dwellings and Apartment Buildings.**

**(1) Lots and Buildings.**

(a) Maximum building length shall be two hundred twenty-five (225) feet

(b) Maximum building height shall be fifty (50) feet

(c) Accessory structures shall be setback 35 feet from all lot lines, unless the structure is designated for off-street parking, bus-stops, bicycle infrastructure and/or screening for refuse containers.

**(2) Variety in Design**

(a) All multi-family and/or apartment buildings shall include a variety of complementary design and colors between buildings or clusters of buildings to avoid extreme repetition. Extreme design and color variations on different parts of the same building are discouraged. Variation in rooflines of structures is strongly encouraged.

(b) Designs shall be submitted at the time of Land Development submission.

**C. Separation**

(1) All single-family attached homes (townhouses) shall have a building separation of twenty (20) feet.

(2) All buildings constructed on opposing sides of a street or road shall be constructed in an offset or staggered manner to provide residents with a clear line of sight.

**D. Nonresidential Uses.**

**(1) Lots & Buildings**

- (a) Nonresidential buildings shall have a front yard setback of fifty (50) feet, except where there will be no vehicle parking between the face of the building and the adjacent existing street right-of-way, then the setback shall be thirty (30) feet.**
- (b) The maximum lot coverage of buildings for nonresidential uses shall be 75%.**
- (c) The maximum height of buildings for nonresidential uses shall be fifty (50) feet.**
- (d) The minimum lot width for nonresidential uses shall be one hundred twenty-five (125) feet.**
- (e) No free-standing single tenant building, other than a supermarket, shall have a building footprint more than 35,000 square feet. A supermarket shall not have a building footprint more than 80,000 square feet.**
- (f) Blank walls shall be avoided. Buildings with facades longer than fifty (50) feet shall incorporate recesses, different façade materials, colors and/or designs, and/or different rooflines and roof pitches, and differentiation between floors.**
- (g) Windows shall be provided along street frontages to ensure pedestrian safety and allow for visibility into the store and shall be spaced not more than twenty-five (25) feet apart.**
- (h) Primary building entrances shall be accentuated with features such as canopies, overhangs, and architecturally appropriate lighting to provide prominent, aesthetic customer entrances and exterior pedestrian amenities.**

**(2) The following specific criteria shall apply to all nonresidential uses:**

- (a) Heating, ventilation, air conditioning, and other mechanical elements shall be shielded from street view.**
- (b) Outdoor storage shall be designated at the time of plan approval and shall be visually screened in accordance with the Upper Macungie Township Zoning Ordinance.**
- (c) Continuous and uninterrupted sidewalks, minimum of eight (8) feet in width, with a six (6) foot minimum of unobstructed surface,**

shall be installed along all store frontages and connecting all attached portions of the commercial development.

- (d) Outdoor seating and/or dining areas shall be designated at the time of plan approval and shall be protected from vehicular traffic by use of planters, bollards, decorative fencing, masonry knee walls, or equivalent, with decorative vegetation.
- (e) Each retail area group of stores containing more than 40,000 square feet shall have a parking lot designed for pedestrian safety.

**§ 27-1103. Open Space Standards.**

- 1. An area equal to or greater than 10% of the total tract proposed for development under the Mixed-Use Overlay shall be designated as and exclusively used for common open space and/or recreation purposes, including walking/biking trails.
- 2. The common open space or recreation lands shall be laid out to the satisfaction of the Planning Commission and approved by the Board of Supervisors in addition to the following:
  - A. It must be consistent with the most recent Upper Macungie Township Comprehensive Plan and other applicable plans.
  - B. It must be located and designed as an area or areas that provide connectivity to residents of the development as well as any neighboring residential developments.
  - C. It must be designed to preserve any significant natural features that exist on the site.

**§ 27-1104. Developments in Stages.**

- 1. A development may be constructed in stages under the Mixed-Use Overlay if the following criteria are met:
  - A. A separate preliminary plan application is required when a development under the Mixed-Use Overlay is proposed to be completed in more than one stage, whether initially or cumulatively.
  - B. The application covers the entire development and shows the location and approximate time of construction for each stage

**SECTION 3. EFFECTIVE DATE**

This Ordinance shall become effective five (5) calendar days after the date of enactment.

**SECTION 4. SEVERABILITY**

In the event that any provision, section, sentence, clause or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

**SECTION 5. REPEALER**

All other Ordinances or parts of Ordinances inconsistent herewith shall be and the same expressly are repealed.

**ENACTED AND ORDAINED** the 7<sup>th</sup> Day of April, 2022, by the Board of Supervisors of the Township of Upper Macungie, Lehigh County, Pennsylvania, in lawful session duly assembled.

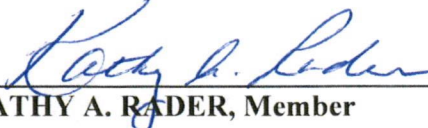
**ATTEST**

**UPPER MACUNGIE TOWNSHIP  
BOARD OF SUPERVISORS**

  
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**KALMAN SOSTARECZ, Township Secretary**

  
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**JAMES M. BRUNELL, Chairman**

  
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**SUNNY GHAI, Vice-Chairman**

  
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**KATHY A. RADER, Member**

