

LOWER MILFORD TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA

ORDINANCE NO. 136

AN ORDINANCE OF THE TOWNSHIP OF LOWER MILFORD, LEHIGH COUNTY, PENNSYLVANIA PROVIDING FOR THE REGULATION AND ADMINISTRATION OF OPEN BURNING, SPECIAL FIRE EQUIPMENT, FIREWORKS DISPLAYS WITHIN THE TOWNSHIP, AND PROVIDING FOR A PENALTY FOR VIOLATIONS THEREOF. THIS ORDINANCE HEREBY REPEALS AND REPLACES ORDINANCE NO. 110 NAMED "FIRE SAFETY, PROTECTION AND PREVENTION ORDINANCE".

WHEREAS, the Board of Supervisors of Lower Milford Township is empowered by section 1506 of the Second Class Township Code, 53 P.S. § 66506, to enact and amend regulations to advance the health, safety, and welfare of the citizens of Lower Milford Township; and

WHEREAS, the Board of Supervisors 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 Lower Milford Township will be served by the following ordinance.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Board of Supervisors of Lower Milford Township, Lehigh County, Pennsylvania, as follows:

ARTICLE I – Definitions

1. APA 87-1 – The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.
2. Board – The Board of Supervisors of Lower Milford Township
3. Burning – The act of consuming by fire; to flame, char, scorch, or blaze. As used in this ordinance, smoldering shall have the same meaning as burning.
4. Clearing and Grubbing Wastes – Trees, shrubs, and other native vegetation, which are cleared from land. The term does not include demolition wastes.
5. Consumer fireworks – Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer

Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1 or any successor standard. The term does not include devices such as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1 or any successor standard, the sale, possession and use of which is always permitted.

6. Display Fireworks – Large fireworks are to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to:
 - (1) salutes that contain more than two grains or 130 milligrams of explosive materials;
 - (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and
 - (3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).
7. Domestic animals – an animal including, but not limited to, a dog, cat, bird, horse, or sheep, that has been tamed and kept by humans as a pet, work animal, or food source. Domestic animals include any of various animals domesticated so as to live and breed in a tame condition.
8. Domestic Refuse – Waste, which is generated from the normal occupancy of a structure, occupied solely as a dwelling. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint plastics, putrescible waste, solvents, tires, or treated wood.
9. Enforcement Officer – The Lower Milford Township Zoning Officer shall be the designated Enforcement Officer under this Ordinance.
10. Extinguishing Equipment – Fire extinguisher or hose connected to a domestic water supply.
11. Fire Department – The designated Fire Company for Lower Milford Township.
12. Livestock – Animals including, but not limited to, cattle, swine, sheep, goats, poultry, donkeys, mules, horses, and ponies raised primarily for the production of food or fiber, or for recreation or sport.
13. Occupied structure – A structure, vehicle or place adapted for overnight accommodation of persons, or for conducting business whether or not a person is actually present. This definition shall also encompass structures used for the housing of domestic animals and livestock.

14. Open Burning – A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.
15. Person – Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust estate, department, board, bureau or agency of the Commonwealth or the Federal Government, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
16. Yard Waste-Leaves, grass clippings, garden residue, tree trimmings; chipped shrubbery, and other vegetative material.

ARTICLE II – Open Burning

1. Open burning shall be permitted for the following:
 - A. Yard waste as defined with the exception of poison ivy, sumac, oak or any other poisonous vegetation
 - B. Recreational or ceremonial purposes
 - C. Clearing or grubbing wastes
 - D. Domestic refuse
 - E. Agricultural fields
2. Notification shall be given to the Lehigh County Communications Center prior to all open burning with the exception of domestic refuse within a non-combustible receptacle or for cooking purposes.
3. Open burning shall comply with the following:
 - A. Burning shall take place at least fifty feet (50') from any building, structure, or wooded area.
 - B. Burning shall be attended at all times with extinguishing equipment available for immediate use.
 - C. Burning shall not take place on Sundays or legal holidays or before dawn or after dusk with the exception of recreational or ceremonial fires and only after proper notice is given to Lehigh County Communications Center.

- D. Burning shall not take place on public roads, swales, curbs or drainage systems at any time.
- E. Burning of agricultural fields shall only be permitted upon prior registration with the Township Office on forms provided by the Fire Department.
- F. No greater than ten (10) cubic yards of waste may be burned at one time unless permission is granted by the Enforcement Officer prior to burning.

ARTICLE III – Special Fire Equipment

- 1. It shall be unlawful for any person to operate, use, or open any fire hydrants within the township, whether dry or pressurized, without the written permission of the Board or the Fire Department.
- 2. It shall be unlawful for any person to obstruct, deface, or restrict access to any fire hydrant.
- 3. Costs for special equipment used to control and/or extinguish petroleum, chemical or other fires or spills shall be billed by the Fire Department to the owner and/or carrier of such products. Bills that remain unpaid after sixty (60) days shall be turned over to the Township for collection.

ARTICLE IV - Fireworks

- 1. It shall be unlawful for any person to have or to hold display fireworks within the township, unless the Enforcement Officer has issued a permit.
- 2. Application for a permit shall be made on a form provided by the township, the fee of which shall be established by the Board, at least thirty (30) days in advance of the date of display.
- 3. Every display shall be handled by a licensed operator.
- 4. Application for a permit shall be accompanied by a copy of the operator's license, as required by any state or federal agency, a copy of the operator's current certificate of liability insurance in the amount of \$2,000 000 per occurrence for payment of all damages caused to any person or property by reason of the licensed display.
- 5. A statement by the Fire Department Chief shall be submitted with the application stating that the character, location, and discharge of the fireworks display, in the opinion of the Fire Department Chief, will not be a hazard to property or endanger any person or persons and the Fire Department is available to participate on standby.

6. No permit granted hereunder is transferable.
7. If due to unfavorable weather the display for which a permit has been granted does not take place at the time so authorized, the operator, within forty-eight (48) hours, may request an extension of time not to exceed one week beyond the original designated date provided all accompanying documents are valid.
8. Use of consumer fireworks
 - A. Conditions – A person who is at least 18 years of age and meets the requirements of 72 P.S. §§ 9401–9416 may purchase, possess and use consumer fireworks.
 - B. Prohibitions – A person may not intentionally ignite or discharge:
 - (1) Consumer fireworks on public or private property without the express permission of the owner.
 - (2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building.
 - (3) Consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person.
 - (4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.
 - (5) Consumer fireworks within 150 feet of an occupied structure.
 - C. Time for displays – the use of consumer fireworks shall only be permitted within the Township between the hours of 9:00 p.m. and 11:00 p.m.

ARTICLE V – Declaration of Open Burning Ban

1. If weather conditions are such that opening burning could constitute a danger or hazard to life and property within the Township, the Board of Supervisors, upon recommendation of the Fire Department Chief, may declare a ban on open burning.
2. If, in the opinion of the Fire Department Chief, conditions warrant an emergency ban of open burning to be declared, one member of the Board of Supervisors shall cause an emergency ban of open burning to be declared. Ratification of the declaration shall take place by the Board of Supervisors at their next public meeting.

3. Notification shall be given to the Fire Department Chief immediately upon declaration of an open burning ban. Upon receiving notification of the open burning ban, notice shall be placed on a sign within public view at the Fire Department building stating that an open burning ban is in effect.
4. Public notification of an open burning ban shall be posted on the Township website, the Township Building entrance, and by publication of such declaration in a newspaper of general circulation in the Township.
5. Notification of the expiration or canceling of an open burning ban shall be given in accordance with 3 and 4 above.
6. The burning of domestic refuse in an entirely enclosed container, recreational fire pit, and for cooking purposes shall be exempt from an open burning ban.

ARTICLE VI – Enforcement

1. Any person who violates this Ordinance shall upon conviction thereof before a District Justice, be sentenced to pay a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) together with the costs of prosecution, and/or imprisonment for a term not to exceed ninety (90) days. Each violation shall constitute a separate offense for which a summary conviction may be sought.
2. No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.
3. The Township of Lower Milford and its agents, officials and representatives, shall not under any circumstances be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance. The individual person or party conducting activities as regulated by this Ordinance shall bear sole liability for any damages caused as a result thereof.

ARTICLE VII– Severability

The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

ARTICLE VIII – Repealer

All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

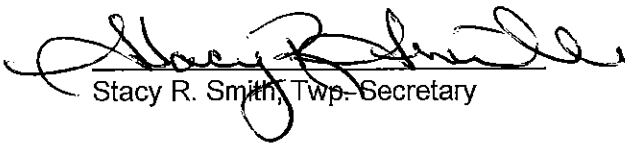
ARTICLE IX

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

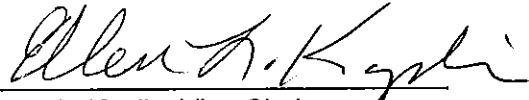
ORDAINED AND ENACTED as an Ordinance of the Township of Lower Milford, Lehigh County, Pennsylvania, this 20th day of AUGUST, 2020.

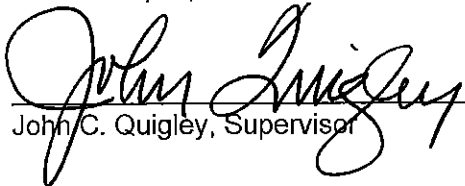
ATTEST:

BOARD OF SUPERVISORS OF
LOWER MILFORD TOWNSHIP


By: _____
Stacy R. Smith, Twp. Secretary


By: _____
Donna L. Wright, Chair


By: _____
Ellen L. Koplin, Vice-Chair


By: _____
John C. Quigley, Supervisor