

**ORDINANCE NO. 127**

**AN ORDINANCE OF THE TOWNSHIP OF LOWER MILFORD AMENDING THE ZONING ORDINANCE TO REVISE, CLARIFY AND EXPAND PROVISIONS RELATED TO RESIDENTIAL USES, AGRICULTURAL USES, DEFINITIONS AND OTHER REVISIONS AND CLARIFICATIONS**

**WHEREAS**, The Township of Lower Milford enacted a Zoning Ordinance, Ordinance Number 114, on July 20, 2009; and

**WHEREAS**, The Township now desires to amend the Zoning Ordinance to revise, clarify and expand the provisions for residential uses, agricultural uses, definitions and other revisions and clarifications.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** that the Zoning Ordinance of Lower Milford Township be amended as follows:

**ARTICLE II** Definition of Terms - The following definitions are hereby added or altered:

**AGRICULTURE:** The cultivation of the soil and the raising and harvesting of the products of the soil including but not limited to, raising of grains, vegetables and fruits; vineyards; nurserying; horticulture; forestry; beekeeping; and animal husbandry of common domestic farm animals and birds such as cows, horses, sheep, hogs, goats, rabbits, chickens, ducks, turkeys, pigeons, llamas, alpacas, emus, rheas, and similar non-predatory animals and birds pursuant to the regulations of this Ordinance. The raising or keeping of minks, or garbage-fed pigs, is prohibited. The keeping of domestic or other animals or birds as pets or for domestic purposes shall not be construed as agriculture.

**ANIMAL HUSBANDRY** – The raising and/or keeping of common domestic farm animals and birds, all as defined under AGRICULTURE, with the intent of producing capital gain or profit through the selling of any animal or bird products. The keeping of domestic or other animals or birds as farm pets, or for domestic purposes pursuant to the regulations of this Ordinance, shall not be construed as animal husbandry.

**CLEAR-CUTTING** –The uniform felling and/or removal of all trees on a given tract of any size, or any portion of a tract greater than one-half (0.5) acre in contiguous area, during a single timber harvesting operation or within a three (3) year period. See also “SELECTIVE CUTTING.”

**COMMON DOMESTIC COMPANION ANIMALS (PETS)** – The non-commercial keeping or raising of domestic companion pets for personal enjoyment or domestic purposes, such as dogs, cats, and common house birds. This can also include certain common domestic farm animals kept as pets or for domestic purposes subject to the limitations of this Ordinance.

**COMMON DOMESTIC FARM ANIMALS** – Livestock such as horses, cattle, sheep, pigs or other domestic animals commonly thought of as farm animals, and small animals such as poultry, rabbits, or other animals commonly thought of as farm animals, may be kept as personal pets. This does not include domestic companion animals (pets) such as dogs or cats. This does not include any animals or birds kept for slaughter, or animals or birds kept with the intent of producing capital gain or profit through the selling of animal or bird products.

**GROUP HOME** - A dwelling unit operated by an individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the persons served due to age, emotional, mental, developmental or physical disability. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the

Federal Fair Housing Act as amended, but not including any use that is a criminal treatment center. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such license must be delivered to the Zoning Officer prior to the initiation of the use. A Group Home typically involves an individual residing on the premises for more than 30 days at a time.

- A. Group homes shall be subject to the same limitations and regulations by the Township as the type of dwelling unit they occupy.
- B. It is the express intent of the Township to comply with all provisions of the Federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term.
- C. Group homes shall not include halfway homes, work release or any home or facility designed for the rehabilitation of juvenile or adult criminal violators, or any person who constitutes a direct threat to the physical safety of others, including but not limited to, persons prone to physical violence against persons or property.

**KENNEL** – An establishment equipped with pens, yards, runways or other appurtenances specifically designed or intended for the breeding, boarding, or training of dogs, where the dogs will remain on the property for a minimum of 24 hours, for compensation.

**NON-NUISANCE INDUSTRY** – Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration, or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards. Non-nuisance industry may include contracting uses such as offices and supply shops for uses relating to building supplies, electric, heating, plumbing, masonry, painting, roofing, and similar trades, as well as indoor business endeavors such as those enumerated in Article XIII D (uses only as permitted in each District) and subject to all regulations in Article XIII including but not limited to parking, signs, lights, and physical performance requirements under Section 1306.

**REASONABLE ACCOMMODATION** – Modifications or exceptions to rules, policies, practices, or services when necessary to afford persons with disabilities an equal opportunity to the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms.

**SECONDARY FARM FAMILY BUSINESS** - An agricultural accessory use of non-nuisance industry such as repair of agricultural equipment, butcher shop, processing of local agricultural products, farm to table food preparation or classes, or other types of agricultural businesses which provide a secondary source of income to the primary agricultural use. Any such use must meet non-nuisance industry guidelines regarding the emission of smoke, noise, odor, dust, light, and all physical performance requirements listed in Section 1306.

**TEMPORARY DWELLING FOR FAMILY MEMBER(S)** – A second detached dwelling unit for the express purpose of housing certain family members of the occupants of the primary dwelling located on the property in accordance with criteria found in Article XII, Section 1200.A.

**TIMBER HARVESTING PLAN** – A plan submitted in conformance with the provisions set forth in Article XII, Section 1200.A. of this Ordinance, which describes, by means of text and maps, proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a professional with demonstrated expertise in forest management, and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, landing areas, and the tree removal process; and ensure site restoration. A Forest Stewardship Plan that promotes the use of BMPs

and is consistent with the Sustainable Forestry Initiative may be part of a Timber Harvesting Plan submittal, as provided for in Section 1200.A.

**TREE MASS (PLANT COMMUNITY)** - groups of plants sharing a common environment that interact with each other, animal populations, and the physical environment such that the mass of trees, vines, hedges or other plant material intertwine to create a nearly-impenetrable forest line. Tree masses can include forest interior habitat. Any construction or disturbance to a tree mass or plant community shall be calculated according to the tree protection zone.

**VETERINARY HOSPITAL** – A place where animals or pets are given medical or surgical treatment, which can include outdoor runs and overnight boarding of animals. Boarding of animals in certain Districts may be limited to indoor only, short-term care incidental to hospital use.

**WILDLIFE REHABILITATION CENTER** – A building, structure, pen or portion(s) thereof or an area of land where animals are housed, kept or maintained for the purpose of wildlife rehabilitation, whether the animal can be released into the original habitat after care or not, or which offers animals commonly known as wildlife medical care and treatment.

**ARTICLE III** Section 301. Use Regulations in the AC-Agricultural Conservation District is amended to add the following subsection:

- A.1.m. Group Home
- A. 2.k. Kennels.
- B.8. Veterinary hospitals.
- D.5 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE IV** Section 401. Use Regulations in the RC-Resource Conservation District is amended to add the following subsection:

- A.1.1. Group Home
- B.16. Veterinary hospitals and kennels.
- C. Uses permitted as conditional use
  - Use 3 is deleted and the remaining uses renumbered accordingly 3-8
- D.5. Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE V** Section 501.

- A.8. Group Home
- B.9. Veterinary hospitals, kennels and animal rescue shelters.
- C.2. is deleted, and remaining Uses numbered 2-4
- D.6 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8 Agriculture.

**ARTICLE VI** Section 601.

- A.8. Group Home
- B.9. Kennels
- C.4. Veterinary hospital, excluding veterinary hospitals offering commercial boarding using outdoor runs.
- D.6 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE VII** Section 701. Use Regulations in the VC-Village Center District is amended to add the following subsection:

A.20. Group Home

B.6. Veterinary hospital, excluding veterinary hospitals offering commercial boarding using outdoor runs.

D.5. Reference to Ordinance No. 53 is changed to Ordinance No. 58

D. 7. Agriculture.

**ARTICLE X** Section 1001. H. Maximum Disturbance is amended for Class II Woodlands from 15% to 20%

Section 1004.

A.3. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed twenty (20) percent of any area designated Class II Woodland on the adopted Lower Milford Township Woodland Classification Map.

C.2.b. Heritage Trees, Heritage Vegetation, and/or Higher Value Species;

Section 1005. Heritage Trees – Subsection C. Any Timber Harvest involving Heritage Trees shall require a special exception in all Districts. In addition to meeting the standards set forth in Article XIV, Section 1403.B., the following standards shall also apply.

1. No Heritage Trees may be removed without having been surveyed and identified by a certified arborist or forestry engineer.
2. No Heritage Trees shall be removed without presentation of a plan for replacement in accordance with the provisions in Article X.
3. Trees or other plants that have been determined by a certified arborist or forestry engineer to be dead or diseased or in any manner constituting a safety hazard shall not be considered Heritage Trees for the purposes of protection and replacement.

Section 1009.F.1.b. Ratio for Class II Woodlands. Remove, *Regulated by Underlying Resource* and insert 80%

**ARTICLE XII** Supplementary Regulations, Section 1200. is amended to add or arrange the following subsections:

A.2. Agriculture

Agriculture shall be permitted by right in the AC, RC, RR-1 and RR-2 Districts, and as an accessory use in all districts, subject to the following standards.

A.2.b. Animal Husbandry, including the use of barns, animal shelters, or other structures commonly associated with animal husbandry, shall be permitted by-right in the AC, RC, and RR-2 Districts subject to the following standards, but shall exclude any agricultural activity meeting the definition of Intensive Agriculture, which are subject to conditional use approval in accord with Article XII, Section 1200.A.3.

A.2.d. original is omitted.

A.2.d. No slaughtering operations for commercial purposes shall be permitted.

A.2.e. All manure management practices and operations shall comply with the applicable regulations of the Pennsylvania Department of Agriculture and the Department of Environmental Protection.

A.4. Animal Rescue Shelter or Wildlife Rehabilitation Center

- b. The Zoning Hearing Board shall consider the nature and character of the surrounding neighborhood, as well any impact on the surrounding properties consistent with Article XIV, Section 1403, with special attention in the case of a wildlife rehabilitation center, to the general safety, health and general welfare of the community.
- c. The applicant shall explain measures that will ensure that the proposed use will comply with all nuisance regulations including but not limited to noise, odor, and waste management, along with a plan for storage and disposal of deceased animals within 24 hours of an animal's death.
- d. Any shelter building, structure, pen, feed yard, or manure storage area shall be located at least one hundred (100) feet from any lot line, seventy-five (75) feet from any street line, and five hundred (500) feet from all existing dwellings except any dwelling located on the same property.
- e. No outdoor free roaming or running animals are permitted. All wildlife rehabilitation animals shall be kept indoors or outdoors only on a leash under the full control of the owner, or within a secure, completely enclosed cage or fenced area of sufficient height to prevent escape from the property. Facilities and outdoor cages must be locked and constructed to reasonably secure the containment of wildlife being rehabilitated and ensure the exclusion of other wild and domestic animals from the facility.

#### A.9. Common Domestic Farm Animals as Pets

Non-traditional pets (i.e. other than dogs, cats or common house birds) can be kept according to the following limitations:

- a. Small common domestic farm animals such as poultry, rabbits or other small non-nuisance animals (excluding mink, roosters and garbage fed pigs) may be kept as domestic pets on residential properties in all districts. Unless the parcel is over 3 acres, the number of small animals shall not exceed twelve (12) aggregate. Roosters are not permitted on residential properties under three (3) acres in RR-2 or VC Districts. Coops or shelters must be located in rear yards and meet a minimum of twenty-five (25) foot setback from both side and rear property lines.
- b. Large and medium sized and additional numbers of small common domestic farm animals and birds may be kept as pets or for domestic purposes (other than animal husbandry or qualifying as Intensive Agriculture) on a parcel of at least three (3) acres in the AC, RC, and RR-2 Districts, and which meets the minimum yard requirements pursuant to the following requirements:
  - 1) One (1) large animal such as a horse, cow, or pig, four (4) medium sized animals such as sheep; or not more than twenty-five (25) poultry, fowl, rabbits, or other small animals (excluding minks and garbage fed pigs) for the initial three (3) acres;
  - 2) One (1) additional large animal per added 1 ½ acres, or four (4) additional medium sized animals, or twenty-five (25) additional small animals (excluding mink) may be kept per each additional acre;
  - 3) Animal shelters for animals kept as pets or for domestic purposes on parcels over three (3) acres but less than ten (10) acres shall meet the following setbacks:
    - i. for large and medium sized animals: such shelters shall be three hundred (300) feet from any existing dwelling other than the owner's, seventy-five (75) feet from all street lines, and one hundred (100) feet from all lot lines.
    - ii. for under forty (40) small animals: such shelters must be twenty (20) feet from all lot lines.
    - iii. for over forty (40) small animals: such shelters must be three hundred (300) feet from existing dwellings, except the owner's, seventy-five (75) feet from all street lines, and one hundred feet (100) from all lot lines.

#### A.10. Communications Antennas and Communications Equipment Buildings by Permitted Use

#### A.11. Communications Towers as Conditional Uses

#### A.12. Day Care Centers for Children and Older Adults

A.13. Group Home

- a. Zoning permit applications for a Group Home shall include a statement setting forth full particulars on the operation to be conducted, and to file with the Township the approvals of the Pennsylvania Department of Health, Labor and Industry, State and Public Welfare, Human Relations Commission, as well as to Title VI of the Civil Rights Act of 1964, where applicable; and
- b. Any Group Home with at least 4 residents shall provide the Township with copies of any required certification from sponsoring agencies, including but not limited to, the Federal Housing Authority or the Pennsylvania Department of Public Welfare, on an annual basis.
- c. There shall be no more than 6 residents in any Group Home.
- d. There shall be 24-hour supervision by people qualified by training and experience in the field for which the group home is intended.
- e. The use shall be licensed under any applicable State program.
- f. Any medical or counseling services provided shall be only for residents.
- g. One off-street parking space shall be provided for a) the supervisor, b) each additional employee per shift, c) every 2 residents.
- h. The Group Home activity shall not be related to criminal rehabilitation of either juveniles or adults.
- i. In any case where an applicant seeks a reasonable accommodation of any of the standards and conditions herein pursuant to provisions of the Fair Housing Act, a written application shall be filed with the Zoning Hearing Board.

A.14. Golf Course

A.15. Heliports

A.16. Home Related Business

A.17. Kennels

- a. The minimum lot size shall be one (1) acre.
- b. All kennel pens and sales areas associated with kennels shall not be located closer than one hundred (100) feet from all property lines and street right-of-way lines, except if the owner of the prospective structure owns land on the other side of the road opposite the location of the proposed structure. In this case, such structure need only be set back from the street right-of-way line fifty (50) feet.
- c. There shall be no outdoor activity conducted between 10:00p.m. and 6:00a.m. and there shall be no illuminated signs during such hours.
- d. Animal waste and all hazardous materials, including pesticides, shall be disposed of and stored outside of the required setbacks and buffer areas.
- e. (Original omitted.)

A.18. Membership Club or Lodge

A.19. Mobile Home Siting

A.20. Oil and Gas Well Operations

A.21. Open Pit Mining, Strip and Borrow Mining, and Related Aggregate Processing Facilities

A.22. Outdoor Farmers Market

A.23. Outdoor Recreation Uses

A.24. Private Landing Strips

A.25. Public and Private Academic Schools

A.26. Recreational Camping Park

A.27. Roadside Stands, Temporary

- A.28. Rural Occupations
- A.29. Solar or Other Alternative Energy Generation
- A.30. Stand-alone Wind Turbine
- A.31. Temporary Dwelling for Family Member(s)
- A.32. Temporary Structures and Uses

A.33. Timber Harvest

b. Any timber harvesting operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards for timber harvesting operations set forth herein. Within thirty (30) days of submission to the Township, a Timber Harvesting Plan shall be approved or denied.

c.2) Identification of all significant natural features on the property including steep slopes, wetlands, Riparian Buffer zones, Heritage Trees, Heritage Vegetation or Higher Value Species located within the area of timber harvest operations as defined in Article II.

d. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copies of all required permits and a letter of adequacy from the Lehigh County Conservation District shall be submitted to Lower Milford Township before any timber harvest permit will be issued.

A.34. Winery

**ARTICLE XIII** Section 1303. ACCESS DRIVEWAYS.

A. All entrance or exit driveways for a public garage, public parking area, filling station, service station or car washing station shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit access driveway shall have a minimum total unobstructed width of twenty (20) feet. All other driveways shall have a minimum width no less than ten (10) feet, and have a minimum width of twelve (12) feet within the legal right-of-way, unless otherwise regulated by PennDOT design standards.

**ARTICLE XIV.**

D. Reasonable accommodations. After having received a complete written application, the Zoning Hearing Board may grant a reasonable accommodation to specific section(s) of this Ordinance if the applicant proves to the clear satisfaction of the Zoning Hearing Board that such modifications are necessary to provide a reasonable accommodation under the Americans With Disabilities Act, 42 U.S.C. section 12101 et. Seq., and/or the Federal Fair Housing Act and/or applicable state and federal law, as amended, to serve persons who the applicant proves have disabilities as defined in and protected by such laws.

**REPEALER.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**SEVERABILITY.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Lower Milford Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**EFFECTIVE DATE.** This Ordinance shall become effective five (5) days after adoption.

as an Ordinance of the Township of Lower Milford this 20<sup>th</sup> day of April, 2016.

ATTEST:

Allen P. Keyser  
Township Secretary

LOWER MILFORD TOWNSHIP  
BOARD OF SUPERVISORS

[Signature]  
Chair

[Signature]  
Vice-Chair

[Signature]  
Supervisor