

LOWER PROVIDENCE TOWNSHIP
Montgomery County, Pennsylvania

ORDINANCE #671
(Duly Adopted December 17, 2020)

AN ORDINANCE AMENDING OF THE CODIFIED ORDINANCES OF LOWER PROVIDENCE TOWNSHIP TO CREATE A NEW ARTICLE V UNDER CHAPTER 83 ADOPTING THE 2015 EDITION OF THE INTERNATIONAL FIRE CODE AS THE TOWNSHIP'S FIRE CODE REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS, ARISING FROM THE STORAGE, HANDLING, AND USE OF HAZARDOUS SUBSTANCES, MATERIALS, AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO THE OCCUPANCY OF BUILDINGS AND PREMISES.

WHEREAS, pursuant to Articles XV and XVIII, of the Second Class Township Code, including but not limited to Sections 66505, 66506, 66517, 66527, 66529, and 66805, the Lower Providence Township has the ability to govern the conditions and maintenance of all property, buildings, and structures within the Township, and more specifically concerning fire and explosion prevention; and

WHEREAS, the Lower Providence Township Board of Supervisors desires to establish minimum regulations for the governing and safeguarding of life and property from fire, explosion hazards, and conditions hazardous to life or property; and

WHEREAS, the Lower Providence Township Board of Supervisors desires to establish controls and regulations governing of the safety and occupancy of buildings and premises within Lower Providence Township as herein provided;

NOW, THEREFORE, it is hereby **ENACTED** and **ORDAINED** by the Board of Supervisors of Lower Providence Township, as follows:

ARTICLE I Adoption and Codification of the Fire Code

A new Article V of Chapter 83 of the Codified Ordinances of Lower Providence Township is hereby created to adopt and modify the *2015 International Fire Code* as the Fire Code of Lower Providence Township. The new Chapter 83, Article V, Fire Code, shall read as follows:

Article V Fire Code

§83-501 Adoption of Standards.

The *2015 International Fire Code*, as published by the International Code Council, Inc., as amended, revised, and/or reprinted from time to time, is hereby adopted as the Fire Code of Lower Providence Township. Each and all of the regulations, provisions, penalties, conditions and terms of said *International Fire Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with the additions, insertions, deletions, and changes as prescribed below in this Part.

§83-502 Revisions to Standards.

The following replacements, insertions, changes, modifications, and deletions shall be made in the *2015 International Fire Code*, as amended, at the places hereinafter indicated:

- A. Subsection 101.1, relating to the Title, shall be amended so “[NAME OF JURISDICTION]” is replaced with “Lower Providence Township”.
- B. Subsection 101.6 entitled “Default Municipality”, shall be added to the code and shall read as follows:

101.6 Default Municipality. Whenever in this fire code a municipality or jurisdiction is mentioned and no name is given therefor, said reference to a municipality or jurisdiction shall be construed to mean Lower Providence Township, or where a state is mentioned, the same shall mean the Commonwealth of Pennsylvania; and where the Department of Fire Prevention is mentioned, the same shall mean the Lower Providence Township Fire Marshal.

- C. Subsection 102.3 relating to Change of Use or Occupancy shall be modified to reference the Pennsylvania Uniform Construction Code so that it reads as follows:

102.3 Change of Use of Occupancy. Changes shall not be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this fire code and the provisions of the Pennsylvania Uniform Construction Code, as adopted by Lower Providence Township (“PA UCC”). Subject to the approval of the *fire code official*, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all of the requirements of this fire code and the PA UCC, for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

- D. Subsection 102.4 relating to Application of Building Code shall be modified to reference the Pennsylvania Uniform Construction Code so that it reads as follows:

102.4 Application of Building Code. The design and construction of new structures shall comply with the PA UCC, and any alterations, additions, changes in use or changes in structures required by this fire code, which are within the scope of the PA UCC, shall be made in accordance therewith.

- E. Subsection 102.5 relating to Application of Residential Code shall be modified to reference the Pennsylvania Uniform Construction Code so that it reads as follows:

102.5 Application of Residential Code. Where structures are designed and constructed in accordance with the *International Residential Code*, as adopted by the PA UCC, the provisions of this fire code shall apply as follows:

1. Construction and design provisions of this fire code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.7 of this fire code shall apply.
2. Administrative, operational, and maintenance provisions of this fire code shall apply.

- F. Subsections 103.1 through 103.2, inclusive, shall be modified to read as follows:

103.1 General. The Lower Providence Township Fire Marshal or any authorized agent or employee thereof shall be designated as the *fire code official* for the purposes of this fire code.

103.2 Appointment. The *fire code official* shall be appointed in accordance with the personnel procedures and policies of Lower Providence Township.

- G. Subsection 104.10 relating to Fire Investigations shall be modified to specify the authority to conduct investigations so that it reads as follows:

104.10 Fire Investigations. The Fire Marshal or designee shall have the authority to investigate the cause and circumstances of any fire, explosion, or other hazardous condition. Information that could be related to trade secrets or processes shall not be made part of the public record except as directed by a court of law.

- H. Subsection 104.11 relating to Authority at Fires and Other Emergencies shall be modified with the addition of the following sentence at the end of this Subsection: "The investigating Fire Marshal, his/her participating agents or any other agency on scene shall be required to operate within the confines of the Incident Management System."

- I. Subsection 105.1.2 relating to Types of Permits shall be modified to add a third subparagraph which shall read as follows:
 - 3. The *fire code official* shall determine when an operational permit or a construction permit is required.
- J. Section 108 relating to Board of Appeals shall be deleted in its entirety and replaced with the following:

SECTION 108 APPEALS

108.1 General. Whenever the owner or builder of any building about to be or in the course of being erected, altered, repaired, used or occupied, or any other person takes exception to the decision of the *fire code official* in refusing to approve the manner of construction or the type of materials to be used in the erection, alteration, or repair of any building or structure, or to his/her decision as to the occupation or use of any building or structure, or as to its safety or compliance with the provisions of this fire code, such owner or builder or duly authorized agent may, within thirty (30) days after such decision, take an appeal to the Board of Appeals. Such appeal shall be in writing, state the decision of the *fire code official* and the reason for taking exception thereto, and shall be filed with the Township. The appeal shall be heard pursuant to and consistent with the practices and procedures established for or by the Board of Appeals and in accordance with the Pennsylvania Local Agency Law (2 Pa.C.S.A §101 *et seq.*, as amended). The Board of Appeals shall have exclusive jurisdiction to hear and render final adjudications on such appeals. A written decision to affirm, modify, or reverse the decision of the *code official* shall be issued by the Code Appeals Board and duly recorded, with such decision being final.

108.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this fire code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this fire code do not fully apply or an equally good or better form of construction is proposed. The Board of Appeals shall not have authority to waive requirements of this fire code.

108.3 Court review. Any person aggrieved by a Board of Appeals decision, including the Township, may appeal this decision to the Court of Common Pleas. Such an appeal shall be filed within thirty (30) days of the issuance of the decision. Within thirty (30) days of the filing of an appeal, the Township and the *owner* and/or tenant of the premises directly involved in the appeal may intervene in the appeal as of course by filing a notice of intervention, accompanied by proof of service of the same upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

- K. Subsection 109.4 relating to Violation Penalties shall be modified and adapted to conform to Pennsylvania Rules of Criminal Procedure and to insert penalties so that it reads as follows:

109.4 Violation Penalties. Any person who is found by a court of competent jurisdiction, including but not limited to a Magisterial District Court or Court of Common Pleas, to have violated a provision of this fire code; to have failed to comply with any of the requirements of this fire code; to have erected, constructed, altered, repaired, or otherwise undertaken work on a building or structure in violation of the *approved construction documents* or any approved plan, permit, certificate, application for permit or certificate, or directive of the *fire code official*; or to have failed to comply with an order, directive, or notice of the *code official* concerning this fire code shall be liable for a summary offense, the penalty for which shall be not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) for each violation, plus any and all costs incurred by the Township in bringing an action against such violation, including but not limited to consultant fees, attorney's fees, and expert witness fees. Each day that a violation continues shall be deemed a separate violation.

- L. Subsection 111.4 relating to Failure to Comply shall be modified so that it reads as follows:

111.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation of unsafe condition, shall be liable to a fine of not less than Four Hundred Dollars (\$400.00) nor more than One Thousand Dollars (\$1,000.00). Each day the work continues after the issuance of the stop work order shall constitute a separate finable offense. Such fines are in addition to any fines or penalties imposed pursuant to Section 109 - Violations.

- M. Subsection 113.2 relating to Schedule of Permit Fees shall be modified to reference the permit fee adoption procedures for Lower Providence Township so it reads as follows:

113.2 Schedule of Permit Fees. A fee for each permit shall be paid as required, in accordance with the schedule set by resolution of the Board of Supervisors of Lower Providence Township."

- N. Section 202, Definitions. The following definitions shall be amended to read as follows:

BOARD OF APPEALS. The Lower Providence Township Building Code Board of Appeals created, organized, and operated in accordance with Chapter 5, Code Enforcement, of the Code of Ordinances of Lower Providence Township, as amended.

FIRE CODE OFFICIAL. The Township Fire Marshal, his/her deputies and/or assistants, or other designated authority charged with the administration and enforcement of this fire code.

FIRE MARSHAL. The Fire Marshal of Lower Providence Township appointed pursuant to Chapter 12 of the Lower Providence Township Code.

FIRE DEPARTMENT. The Lower Providence Township Volunteer Fire Company or, alternatively, another fire department or fire company authorized by the Lower Providence Township Board of Supervisors to perform fire protection functions in Lower Providence Township.

OCCUPIED. As applied to a building or portion thereof, shall be construed as though followed by the words "or intended, arranged or designed to be occupied, or having a certificate of use and occupancy.

TOWNSHIP. Lower Providence Township, Montgomery County, Commonwealth of Pennsylvania.

- O. Section 307 relating to Open Burning, Recreational Fires and Portable Outdoor Fireplaces shall be removed in its entirety and replaced with the following:

**SECTION 307
RESERVED**

- P. Subsection 501.3 relating to Construction Documents shall be modified to replace the term "fire department" with "*fire code official*."
- Q. Section 503.3 relating to Marking shall be removed in its entirety and replaced with the following:

503.3 Marking and Parking Regulations. Whenever the *fire code official* shall determine that the parking of motor vehicles or other obstruction upon any public or private street, lane, alley, or driveway or within any shopping center, educational institution, apartment complex, or similar occupancy is liable to interfere with the operations of the fire department or seriously hamper egress of occupants from a building in case of fire, the property owner or tenant shall post signs reading "FIRE LANE - NO PARKING BY ORDER OF THE FIRE MARSHAL" along each street, lane, alley, or driveway or within such shopping center, educational institution, apartment complex, or similar occupancy. The number, location, and size of such signs shall be established by the *fire code official*. In addition, whenever the *fire code official* determines signs will not clearly indicate the area in which parking is prohibited, the property owner or tenant may be required to paint lines four (4) inches in width on the roadway surface indicating the area in which parking is prohibited and shall paint the words "Fire Lane" in letters three (3) feet in height on the roadway surface at intervals specified by the *fire code official*.

503.3.1 Temporary Parking Regulations. The *fire code official* is hereby given authority to adopt and enforce temporary parking regulations to cover

emergencies or conditions upon any public or private street, lane, alley, or driveway or within any shopping center, educational institution, apartment complex, or similar occupancy if the *fire code official* determines that the parking of motor vehicles is liable to interfere with the operations of the fire department or seriously hamper the egress of occupants from a building in case of fire. In exercising the authority provided by this Section, the *fire code official* may post temporary signs reading "NO PARKING BY ORDER OF THE FIRE MARSHAL" on or along such street, lane, alley, or driveway or within such shopping center, educational institution, apartment complex, or similar occupancy.

503.3.2 Violation. The *fire code official* may place a parking ticket on any vehicle in violation of the parking restrictions set forth in Sections 503.3 and 503.3.1. Each day a violation occurs shall constitute a separate violation. Any person violating any of the provisions of Sections 503.3 and/or 503.3.1, upon summary conviction before a Magisterial District Judge, shall be sentenced to pay a fine of \$25 and costs of prosecution. Except that in all cases where the *fire code official* first give notice of the offense by either handing to the offending operator, or affixing to the motor vehicle in question, a ticket on which the official has noted the time and place of the offense, nature of the offense charged, and the license registration of the motor vehicle in question, no prosecution shall be instituted for 48 hours thereafter, provided that, if during the said forty-eight-hour period, the offender shall voluntarily appear at the Lower Providence Township Police Department and voluntarily pay \$25 to the Township, in lieu of fines and costs, no prosecution for such offense shall thereafter be brought.

- R. Subsection 503.6 relating to Security Gates shall be modified to replace the term "fire chief" on lines two and three with the term "*fire code official*".
- S. Section 505 relating to Premises Identification shall be removed in its entirety and replaced so that it reads as follows:

**SECTION 505
RESERVED**

- T. Section 506 relating to Key Boxes shall be removed in its entirety and replaced so that it reads as follows:

**SECTION 506
RESERVED**

- U. Subsection 5704.2.9.6.1 concerning locations where above-ground tanks are prohibited shall be modified to read as follows:

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited throughout the Township, except within the I-Industrial and the IO-Industrial Office Zoning Districts.

- V. Subsection 5706.2.4.4 concerning locations where above-ground tanks are prohibited shall be modified to read as follows:

5706.2.4.4 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks is prohibited throughout the Township, except within the I-Industrial and the IO-Industrial Office.

- W. Subsection 5806.2 regarding limitations shall be modified to read as follows:

5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited throughout the Township, except within the I-Industrial and the IO-Industrial Office Zoning Districts.

- X. Subsection 6104.2 concerning maximum capacity within established limits shall be modified to read as follows:

6104.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one (1) installation shall not exceed a water capacity of 2,000 gallons, except within the I-Industrial and the IO-Industrial Office Zoning Districts of the Township.

Exception: In particular installations, this capacity limit shall be determined by the *fire code official*, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided and capabilities of the fire department.

ARTICLE III SAVINGS CLAUSE

Nothing in this Ordinance, or in the International Fire Code adopted hereby, shall be construed to affect any enforcement action, suit, or proceeding pending before any court or other legal body nor construed to affect any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this Ordinance. Furthermore, no just or legal right or remedy of any character shall be lost, impaired, or affected by the adoption of this Ordinance.

ARTICLE IV CONFLICTS

Where the terms of the 2015 International Fire Code, as adopted by this Ordinance, conflict with the terms of any other ordinance, regulation, law, or code, the stricter provision shall apply.

ARTICLE V REPEALER

All Township ordinances or parts of ordinances which are inconsistent herewith are hereby repealed but only to the extent of such conflict.

ARTICLE VI 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 that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

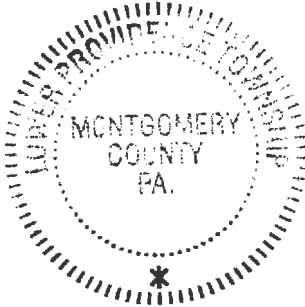
ARTICLE VII EFFECTIVE DATE

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

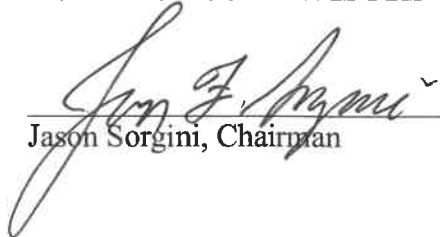
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LOWER PROVIDENCE TOWNSHIP
ORDINANCE NO. 671

ENACTED AND ORDAINED this 17th day of December, 2020, A.D., by the Board of Supervisors of Lower Providence Township in lawful session duly assembled.



LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS



Jason Sorgini, Chairman

ATTEST:



Donald Delamater, Township Manager