LOWER MIFFLIN TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA
ORDINANCE NO. 2024-02

AN ORDINANCE OF LOWER MIFFLIN TOWNSHIP, CUMBERLAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, FOR THE PROMOTION OF SAFE BURNING IN THE TOWNSHIP, DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR REGULATIONS, EXCEPTIONS, ENFORCEMENT ORDERS, RESPONSIBILITY OF OWNERS AND OPERATORS, PENALTIES, UNLAWFUL CONDUCT PUBLIC NUISANCES.

SECTION I. Title

This ordinance shall be known and may be cited as the LOWER MIFFLIN TOWNSHIP, CUMBERLAND COUNTY, SAFE BURNING ORDINANCE OF 2024.

SECTION II. Authority

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Lower Mifflin, County of Cumberland, by authority of and pursuant to the Second Class Township Code, 1933, May 1, P.L. 103, (53 P.S. 65101-68701) and any amendments and supplements thereto, as follows:

SECTION III. Policy

Whereas the Board of Supervisors of Lower Mifflin Township, Cumberland County, has determined that under certain conditions open burning may be detrimental to the health, comfort, living conditions, welfare, and safety of the citizens of Lower Mifflin Township, Cumberland County, to safeguard the citizens of Lower Mifflin township, Cumberland County, under such conditions.

SECTIONS IV. Definitions

The following words, terms, and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

(1) **Board** - Township Board of Supervisors.
(2) **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 and any smoldering shall be deemed a burning.
(3) **Clearing and grubbing wastes** - Trees, shrubs, and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition wastes and dirt laden roots.
(4) **Domestic refuse** - Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two families or less. The term does not include appliances, demolition waste, furniture, mattresses or box springs, paint, solvents, tires, carpet, or treated wood.
(5) **Duly Authorized Agent** - A supervisor, codes officer, zoning officer, Emergency Management Coordinator, Fire Marshal, Chief of Fire Company, or any other Township official authorized to enforce the provisions of this ordinance.
(6) **Municipality** - A public body created under State law having jurisdiction over the

disposal of sewage, industrial wastes, or other wastes.

(7) **NFPA** – National Fire Protection Association.

(8) **Open burning** - A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

(9) **Person** - Any individual, corporation, partnership, association, estate, trust, or other legally recognized entity, and the officers of such corporation or the members of such partnership or association.

(10) **Yard waste** - Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material.

SECTION V. Regulations

Control of Burning and Unattended Fires

(1) Fires may be able to burn under the supervision of an adult in attendance, but under no circumstances shall a fire be set that results in uncontrolled burning.

(2) No fires shall be permitted to burn whenever a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or Cumberland County or Lower Mifflin Township, Cumberland County.

Extinguishing Unsafe Fires

It is a violation of this Ordinance for any person to allow any fire to burn under adverse weather conditions or unsupervised, or otherwise in an unsafe manner. Any such fire may be extinguished by a Duly Authorized Agent immediately.

Notice

Notice of all unconstrained burning shall be given to the Cumberland County Communications Control Center prior to the ignition of the fire, and when such burning has been completed. The fire must not be left unattended.

Unlawful Substances

The burning of any item prohibited by the Pennsylvania Department of Environmental Protection, including, but not limited to, tires, or tar products.

SECTION VI. Emergency Conditions

In the event of drought conditions or an emergency that would make outdoor burning hazardous to the health, safety and welfare of residents and property in the Township, the Board may, without the necessity of calling a special meeting, institute a ban on all outdoor burning in the Township for as long as the drought or emergency conditions exist. When such a ban is issued or lifted by the Board, the public will be notified by newspaper, Township website, or any other means reasonably calculated to bring the ban to the attention of the residents. A notice of said ban will be posted at the Township Municipal Building. It shall be

and is hereby declared to be unlawful for any person to conduct outdoor burning on any land in the Township while such a ban is in effect.

SECTION VII. Enforcement Orders

(1) Duly Authorized Agents by Lower Mifflin Township shall have the power and duty to enforce the provisions of this Ordinance.

(2) Lower Mifflin Township, Cumberland County, may issue such orders as are necessary to aid in the Enforcement of the provisions of this ordinance. These orders shall include, but shall not be limited to:
   a.) Orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this ordinance;
   b.) Orders to take corrective action or to abate a public nuisance.

(3) Lower Mifflin Township, Cumberland County, may, in its order, require compliance with such conditions as are necessary to prevent or abate open burning or affect the purposes of this ordinance.

(4) Any individual as a party of the burning may be found liable.

SECTION VIII. Responsibility of Owners and Operators

(1) Whenever a Duly Authorized Agent of Lower Mifflin Township finds that burning is occurring in the Township, in a manner that is inconsistent with the requirements of this ordinance, the Duly Authorized Agent may order the owner or operator to take corrective action in a manner satisfactory to Lower Mifflin Township, Cumberland County, or the Duly Authorized Agent may order the owner or operator to allow access to the land by a third party to take such corrective action.

(2) For purposes of collecting or recovering the costs involved in taking corrective action, including, but not limited to, the cost of litigation, oversight, monitoring, sampling, testing, and investigation related to a corrective action, Lower Mifflin Township, may collect the amount in the same manner as civil penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in Section IX of this Ordinance.

SECTION IX. Civil Penalties

The Township may, at its discretion, issue fines of not more than One Thousand Dollars ($1,000.00) and the costs and reasonable legal fees of suit, and in default of payment of such fine, costs and reasonable legal fees for any person who burns unlawful substances, or violates any order of Lower Mifflin Township, issued pursuant to this ordinance.

SECTION X. Public Nuisances

A violation of this ordinance or of any order issued by the Lower Mifflin Township, Cumberland County, under this ordinance shall constitute a public nuisance. The Lower Mifflin Township, Cumberland County, shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Lower Mifflin Township, Cumberland County, may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in Section IX. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to this ordinance, the nuisance may be liable for the cost of abatement.

SECTION XI. Validity

The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance.

DULY ENACTED AND ORDAINED this 20th day of November, 2024 by the Board of Supervisors of Lower Mifflin Township, Cumberland County, Pennsylvania in a public session duly assembled.

ATTEST:

Brandi Lay

Brandi Lay
Lower Mifflin Township Secretary

(Township Seal)

BOARD OF SUPERVISORS OF LOWER MIFFLIN TOWNSHIP

Clinton Barrick

Clinton Barrick, Chairman, Board of Supervisors

Franklin A. Oiler

Franklin Oiler, Vice Chairman

Jacob M. Fealtman

Jacob Fealtman, Supervisor