

Upon motion by John E. Morgan, seconded by Brian P. McGrath, the following Ordinance was duly enacted, 2 voting in favor of enactment, 0 voting against enactment.

**ORDINANCE 2016-11**

**An Ordinance to approve, adopt and enact an Ordinance Codification for the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania; to provide for the repeal of certain legislation not included therein; to save from repeal certain other legislation not included therein; and to provide penalties for tampering with the Code.**

**WHEREAS**, the Board of Supervisors has determined that codification of the ordinances of Millcreek Township is in the best interest of the Township, its residents and businesses and those dealing with the Township.

**IT IS HEREBY ENACTED AND ORDAINED** by the Board of Supervisors of the Township of Millcreek, Erie County, Pennsylvania as follows:

**§ 1-1. Approval, adoption and enactment of Code.**

Pursuant to Section 1601(d) of the Second Class Township Code [53 P.S. § 66601(d)], the codification of a complete body of legislation for the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 145, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Millcreek, which shall be known and is hereby designated as the "Code of the Township of Millcreek," hereinafter referred to as the "Code."

**§ 1-2. Effect of Code on previous provisions.**

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township of Millcreek, and it is the intention of said Board of Supervisors that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

**§ 1-3. Inconsistent legislation repealed.**

- A. Repeal of inconsistent ordinances. Except as provided in § 1-4, Legislation saved from repeal; matters not affected by repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed as of the effective date given in § 1-15; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Township of Millcreek which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. Repeal of specific ordinances. The following ordinances are no longer in effect and are hereby specifically repealed:

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>
3	6-6-1949	Streets and sidewalks: surfacing of streets
59-3	3-2-1959	Animals: sale or disposal of baby chicks, rabbits, ducklings and other fowl
60-1	2-15-1960	Taxation: per capita tax
60-5	4-4-1960	Animals: dogs running at large
60-16	11-21-1960	Taxation: per capita tax
61-8	11-20-1961	Taxation: per capita tax
62-17	11-19-1962	Taxation: per capita tax
63-8	11-11-1963	Taxation: per capita tax
64-14	11-30-1964	Taxation: per capita tax
66-5	4-25-1966	Fines for illegally parked motor vehicles
67-10	6-26-1967	Animals: running at large amendment
67-19	12-4-1967	Taxation: per capita tax
72-6	3-6-1972	Firearms and weapons
74-4	4-1-1974	Bicycle registration
74-10	5-28-1974	Bicycle registration amendment
79-7	4-30-1979	Bicycle registration amendment
83-13	7-18-1983	Gas wells
84-12	7-16-1984	Gas wells amendment
86-27	12-1-1986	Noise
92-11	6-2-1992	Littering
2010-3	4-27-2010	Emergency services: use of E-911 system

**§ 1-4. Legislation saved from repeal; matters not affected by repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to June 28, 2016.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Township.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township or other instruments or evidence of the Township's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the Township.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.

- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the Township or setting the bond of any officer or employee.
- P. Any ordinance concerning changes and amendments to the Zoning Map.
- Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Township.
- S. Any currently effective ordinance providing for intergovernmental cooperation or establishing an intermunicipal agreement.

**§ 1-5. Inclusion of new legislation prior to adoption of Code.**

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

**§ 1-6. Changes and revisions in previously adopted legislation; new provisions.**

- A. Nonsubstantive changes. In compiling and preparing the ordinances and resolutions of the Township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.
- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances and resolutions included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Board of Supervisors, and it is the intent of the Board of Supervisors that all such changes be adopted as part of the Code as if the legislation so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.
- C. Nomenclature. Throughout the Code, references to the following agencies or officials are updated as indicated:
  - (1) "Department of Environmental Resources" or "DER" to "Department of Environmental Protection" or "DEP."
  - (2) "Department of Community Affairs" or "DCA" to "Department of Community and Economic Development" or "DCED."
  - (3) "Justice of the Peace," "District Magistrate" and "District Justice" to "Magisterial District Judge."
  - (4) "Soil Conservation Service" or "SCS" to "Natural Resources Conservation Service" or "NRCS."

**§ 1-7. Interpretation of provisions.**

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

**§ 1-8. Titles and headings; editor's notes.**

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

**§ 1-9. Filing of copy of Code.**

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Township Secretary and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Township Secretary, as provided by law, and such certified copy or copies shall remain on file in the office of the Township Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

**§ 1-10. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

**§ 1-11. Code books to be kept up-to-date.**

It shall be the duty of the Township Secretary or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the Township Secretary for the use of the public. All changes in said Code and all legislation adopted by the Board of Supervisors subsequent to the effective date of this codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

**§ 1-12. Publication of notices.**

The Township Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction of the Code in a newspaper of general circulation in the Township. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of a copy or copies of the Code for inspection by the public and the filing of an attested copy of this ordinance with the county, as required by law, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-13. Altering or tampering with Code; violations and penalties.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof in any manner whatsoever which will cause the law of the Township to be misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this chapter. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**§ 1-14. Severability.**

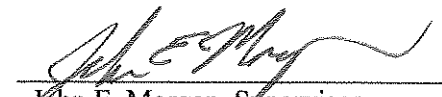
The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Board of Supervisors that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

**§ 1-15. Effective date.**

All provisions of this ordinance and of the Code shall be in force and effect on and after October 2, 2016.

**ENACTED AND ORDAINED** by the Board of Supervisors of the Township of Millcreek this 27th day of September, 2016.

  
\_\_\_\_\_  
Brian P. McGrath, Vice Chairman

  
\_\_\_\_\_  
John E. Morgan, Supervisor

**Millcreek Township Ordinance 2016-11  
Adoption of Code of Ordinances**

**Schedule A  
Specific Revisions at Time of Adoption of Code**

**Chapter 21, Business Regulations.**

**Article III, Bottle Clubs.**

- A. Section 21-22A is amended, in part, as follows: “...a valid ~~certificate of occupancy for such use as required in Article IX of the Millcreek Township Zoning Ordinance~~ use certificate as required by Chapter 145, Zoning, § 145-106.”
- B. Section 21-24 is amended to add the following thereto: “Violations of this article are subject to a civil penalty not to exceed \$600 per violation.”

**Chapter 29, Code Enforcement.**

**Part 1, Moving of Buildings.**

- A. Section 29-3D is amended as follows: “*Fee. The application shall be accompanied by a permit fee ~~in the amount of \$10~~ as established by resolution of the Board of Supervisors from time to time.”*
- B. Section 29-9 is amended to read:  
*This Part 1 shall be enforced pursuant to the provisions of Ordinances Nos. 96-8 and 96-9, as amended (Chapter 48, Enforcement and Collection Activities), governing civil enforcement of ordinances and attorney’s fees and costs payable in enforcement actions. Violations of this Part 1 are subject to a civil penalty not to exceed \$600 per violation. In any civil action, a person or entity found to have violated this Part 1 shall also be obligated within the judgment to pay all costs and attorney’s fees incurred by the Township in the enforcement action. Each day a violation of this Part 1 continues shall constitute a separate offense. Each violation of this Part 1 shall constitute a separate offense, subject to the prescribed fine for each violation.*

**Part 2, Public and Private Improvements.**

Section 29-26 is amended to delete the second sentence thereof.

**Part 3, Uniform Construction Code.**

Appendix A, International Residential Code Table R301.2(1), is amended so that the column thereof reads: “See Ord. No. 2014-1, effective 2-19-2014 (Ch. 70, Part 7, of the Township Code).”

**Part 4, Fire Prevention.**

- A. Section 29-77 is amended to change “IPMC” to “International Fire Code.”
- B. Section 29-78P is amended to read: “Section 111.7 is deleted and shall be replaced by Section 111.8.”

**Chapter 40, Conduct.**

**Article IV, Parking and Towing During Weather Events.**

In § 40-18, the definition of “cartway” is amended as follows: *“As defined in the ~~Subdivision and Land Development Ordinance~~ Public and Private Improvements Code, § 29-25, shall mean that portion of a street which shall be improved by surfacing with permanent or semi-permanent material, intended for vehicular traffic.”*

**Chapter 48, Enforcement and Collection Activities.**

**Article I, Ordinance Enforcement.**

- A. Section 48-3A is amended to delete “anti-litter regulations.”
- B. Original Subsection 1.11.2, regarding fines for ordinances enacted prior to May 7, 1996, is repealed.
- C. Original Subsection 1.12.3, regarding repeal of inconsistencies of Ord. Nos. 83-5 and 93-30, is repealed.

**Chapter 70, Land, Miscellaneous Activities and Regulations.**

**Part 1, Bluff Recession Setback.**

Section 70-9A is amended to read:

A. Civil penalties.

(1) Violations of this Part 1 shall be enforced as civil matters in accordance with the procedure set forth in § 48-10.

(2) A person found to have committed a first violation of this Part 1 shall pay a fine for violation in the sum of \$600. A person found to have committed a second or subsequent violation of this Part 1 shall pay a fine for violation in the sum of \$1,000. In addition, persons found to have violated this Part 1 shall pay all costs of the enforcement, including attorney's fees incurred by the Township in enforcement.

(3) Each day of continued violation of any provision of this Part 1 shall constitute a separate offense under Subsection A(1) and (2).

**Part 2, Airport Zoning.**

- A. Section 70-19 is amended to add the following thereto:  
The Code Enforcement Officer shall issue to a person believed to have violated this Part 2 and enforcement notice in a form adopted by the Board of Supervisors. If a person fails to rectify cited violations by the date(s) set forth in the enforcement notice, violations of this Part 2 shall be enforced as civil matters in accordance with the procedure set forth in § 48-10.
- B. Section 70-21 is amended to read:  
A person found to have committed a first violation of this Part 2 shall pay a fine for violation in the sum of \$600. In addition, persons found to have violated this Part 2 shall pay all costs of the enforcement, including attorney's fees incurred by the Township in enforcement.



**Chapter 102, Sewers and Water.**

**Article I, Water Supply System.**

- A. Section 102-10A is amended to add a minimum fine amount of \$200.
- B. Section 102-10B is amended to delete the latter sentence thereof, regarding imprisonment.

**Article II, Holding Tanks.**

- A. Section 102-16 is amended to delete the fee amounts provided therein.
- B. Section 102-19 is amended to provide a minimum fine of \$100 and a maximum fine of \$300, as well as state that enforcement shall be under a civil enforcement proceeding as provided in Ord. No. 2007-6.

**Article III, Sewer Rentals.**

- A. Section 102-24L is amended to change "53 P.S. § 2261" to "53 P.S. § 3102.502."
- B. Section 102-26 is amended to delete "Act of 1933, May 1, P.L. 103, Article XV, Section 1512" preceding the consolidated statutory reference.

**Article V, Industrial Waste.**

- A. Section 102-50F is amended to delete the reference to imprisonment in the last sentence of the certification statement.
- B. Section 102-56E is amended to delete the reference to imprisonment.
- C. Section 102-56G is amended to delete the reference to imprisonment.

**Chapter 110, Solid Waste and Recycling.**

**Article I, Municipal Waste and Recycling.**

Section 110-16F is amended to delete occurrences of "administrative" in the first two sentences thereof. The second sentence thereof is amended to delete ", such notice to impose the administrative fine for violation as prescribed in § 110-7 of this article." therefrom. Such subsection is further amended so that the last sentence thereof reads: "In the event such violation is not cured by the deadline set forth in the enforcement notice, code enforcement personnel shall institute a civil action for enforcement in accordance with Chapter 48, Conduct, Article I, Ordinance Enforcement."

**Chapter 116, Stormwater Management.**

- A. In § 116-11, the definition of “point source” is amended to change 25 Pa. Code § 92.1 to 25 Pa. Code § 92a.2.
- B. In § 116-11, the definition of “regulated earth disturbance activity” is amended to change Chapter 92 to Chapter 92a.

**Chapter 125, Subdivision and Land Development.**

- A. Section 125-6.
- (1) The definition of “public meeting” is amended as follows:  
*PUBLIC MEETING – A forum held pursuant to notice under the Act of July 3, 1986, P.L. 388, No. 84, Act of October 15, 1998, P.L. 729, No. 93 (65 Pa.C.S.A. § 701 et seq.), known as the “Sunshine Act,” as may in the future be amended.*
  - (2) The definition of “Stormwater Management Ordinance” is amended as follows:  
*STORMWATER MANAGEMENT ORDINANCE – The Millcreek Township Stormwater Management Ordinance, Ordinance No. 97-4, as amended and restated by Ordinance No. 2003-5 2011-11 (Chapter 116 of the Code of the Township of Millcreek), as may in the future be amended.*
  - (3) The definition of “Zoning Ordinance” is amended as follows:  
*ZONING ORDINANCE – The Millcreek Township Zoning Ordinance, Ordinance No. 74-29 2011-8, as amended (Chapter 145 of the Code of the Township of Millcreek).*
- B. Section 125-82.
- (1) Subsection C is amended to change “low volume” to “medium volume” in the second sentence thereof.
  - (2) Subsection D is amended to change “low volume” to “high volume” in the second sentence thereof.
- C. Section 125-88C is amended to delete the reference to Section 405 [of the Stormwater Management Ordinance].
- D. Section 125-90B is amended to add the R-3 Residential District to the list of districts.
- E. Section 125-110 is amended to read:
- Any person or entity found in a civil action for enforcement commenced by Millcreek Township to have violated this chapter shall pay a civil fine of \$500 per day for each violation, plus all costs and attorneys' fees incurred by the Township in said proceeding. All fines collected for violation of this chapter shall be paid over to the Township. Enforcement proceedings shall be as established for civil enforcement in Chapter 48 and in 53 P.S. § 10515.3, as the same may in the future be amended.*
- F. Section 125-111A is amended to delete “imposition of administrative fine or” therefrom.

**Chapter 129, Taxation.**

**Article V, Local Services Tax.**

A. In § 129-17, the following definitions are amended to read as provided:

*EARNED INCOME* – Compensation, as this term is defined in the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, as amended (53 P.S. § 6924.501).

*NET PROFITS* – The net income from the operation of a business, profession, or other activity, as this term is defined in the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, as amended (53 P.S. § 6924.501).

B. Section 129-29 is amended to delete the reference to imprisonment.

**Chapter 137, Vehicles and Traffic.**

This chapter is adopted to read as provided in the attachment to this schedule.

**Chapter 145, Zoning.**

A. In § 145-11, the definitions of “buildable area,” “building setback line,” “lot area,” “lot line,” “building height,” and “lot coverage” are amended to delete references to the appendix.

B. Section 145-18F(1) is amended to change “I-3 Light Industry District” to “I-3 Industrial Park District.”

C. In § 145-29C, the table entry for “Sanitary landfill/composting facility” is amended to delete the reference to Ord. No. 70-15.

D. Section 145-41A is amended to delete “(see Sections 404(I)(10) and 404(G)(4), as amended)” in the first sentence thereof.

E. Section 145-69.

(1) Subsection B is amended, in part, as follows: “~~All~~ No activities involved in the exploration, production, or drilling...”

(2) Subsection G is added:

G. No well shall be closer than:

- (1) Fifteen feet from any building on owner’s lot;
- (2) Twenty-five feet from any building on any neighbor’s lot;
- (3) Ten feet from any neighbor’s property line; and
- (4) Ten feet from any public street’s right-of-way.

F. Original Section 10.11.1(6), Challenges to the validity of a land use ordinance brought pursuant to Section 909.1(2) of the MPC, is repealed.

G. Section 145-114C(3)(a) is amended to delete “and all appeals challenging the validity of a land use ordinance brought pursuant to Section 909.1(2) of the MPC” and the reference to § 145-114A(6).

H. Section 145-117A is amended to change the fine from \$600 to \$500.