

Upon motion by Jess. S. Jiuliante, III, seconded by Suzanne R. Weber, the following Ordinance was duly enacted, 3 voting in favor of enactment, 0 voting against enactment.

ORDINANCE NO. 92-36

An Ordinance to prohibit careless driving on private property in Millcreek Township, Erie, Pennsylvania, providing for penalties for violations of the Ordinance, severability and repealor.

WHEREAS, Millcreek Township Ordinance No. 80-20 was enacted on December 22, 1980, to regulate and prohibit reckless driving on private property within the Township, said Ordinance being enacted to address omission of any provision in the Pennsylvania Vehicle Code prohibiting such conduct; and

WHEREAS, amendments to the Pennsylvania Vehicle Code effective April 1, 1992, 75 P.S. Section 3736, redefine the offense of reckless driving so as to provide for enforcement upon private property; and

WHEREAS, those provisions of the Pennsylvania Vehicle Code applicable to careless driving, 75 P.S. Section 3714, do not apply to trafficways and private property; and

WHEREAS, the Pennsylvania Vehicle Code, 75 P.S. Section 6301, provides that, when the same conduct is prescribed under the Vehicle Code and a local ordinance, any charge for violation shall be brought under the Vehicle Code and not under the local ordinance; and

WHEREAS, the provisions of Ordinance No. 80-20, originally enacted to address matters not proscribed under the Vehicle Code, are now addressed in part by provisions of the Vehicle Code as subsequently amended; and

WHEREAS, the Millcreek Township Supervisors find that the amendments to the Pennsylvania Vehicle Code enacted subsequent to Ordinance No. 80-20 supersede its original intent and purpose and, at present, fail to address proper regulation of driving upon trafficways and private property within Millcreek Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Supervisors of Millcreek Township, Erie County, Pennsylvania, and it is hereby ordained and enacted as follows:

SECTION 1. Careless driving of any vehicle by any person on and upon private property in Millcreek Township, Erie County, Pennsylvania, shall be unlawful.

SECTION 2. “Careless Driving” shall be defined as follows: Any person who drives any vehicle on or upon private property or trafficways without exercising due care and/or in careless disregard for the safety of person or property shall be guilty of careless driving.

SECTION 3. This Ordinance shall not operate so as to prohibit “reckless driving” as the same is prohibited under Section 3736 of the Pennsylvania Vehicle Code or “careless driving” upon public highways as is enforced under Section 3714 of the Pennsylvania Vehicle Code.

SECTION 4. Any person or persons who shall violate the terms of this Ordinance shall, upon conviction before a District Justice, be subject to a fine of Fifty Dollars (\$50.00) and costs of prosecution and, in default of payment thereof, shall undergo imprisonment as provided by law.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstances is for any reason held to be invalid or unconstitutional by any court, such holdings shall not be construed to affect the validity of any of the remaining provisions. It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision of its application not been included herein.

SECTION 6. All Ordinances or parts of any Ordinance inconsistent herewith are hereby repealed, this Ordinance operating so as to repeal absolutely Ordinance No. 80-20.

SECTION 7. This Ordinance shall not supersede or affect reckless driving as defined in Section 3736 of the Pennsylvania Vehicle Code or careless driving upon public highways as defined in Section 3714 of the Vehicle Code.

BE IT ENACTED this 17th day of November, 1992.

MILLCREEK TOWNSHIP

SUPERVISORS

Chairman _____ /

_____ Paul J. Martin,

III _____ /

_____ Jess S. Juliante,

Weber _____ /

_____ Suzanne R.

I hereby certify that I am the duly appointed Secretary of the Township of Millcreek, that I am authorized to make this certification and that the foregoing Ordinance is a true and correct copy of Ordinance No. 92-36 of the Township of Millcreek, passed by the Supervisors on November 17, 1992.

_____ Jess S. Juliante, III
(signed) _____ /
Secretary

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