

TOWNSHIP OF SOUTH MIDDLETON
CUMBERLAND COUNTY, PENNSYLVANIA

Ordinance 2017-03

AN ORDINANCE OF THE TOWNSHIP OF SOUTH MIDDLETON, CUMBERLAND COUNTY, PENNSYLVANIA, PROMOTING THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE IN THE TOWNSHIP AND FOR ITS CITIZENS; ADOPTING BY REFERENCE CERTAIN PROVISIONS OF THE 2009 EDITION OF THE INTERNATIONAL FIRE CODE, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND OTHER HAZARDS ARISING FROM THE STORAGE, HANDLING, AND USE OF COMBUSTIBLE OR EXPLOSIVE SUBSTANCES, MATERIALS AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE TOWNSHIP; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; PRESCRIBING MINIMUM REQUIREMENTS NECESSARY TO ESTABLISH A REASONABLE LEVEL OF FIRE SAFETY AND PROPERTY PROTECTION; REEDIATING HAZARDS CREATED BY FIRE AND EXPLOSION; PROVIDING FOR PENALTIES AND VIOLATIONS THEREOF; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, Section 607(1) of the Second Class Township Code, 35 P.S. § 65107(1) grants to the Township the authority to make regulations as may be necessary for the health, safety, and welfare of the Township; and

WHEREAS, Section 1805 of the Second Class Township Code, 35 P.S. § 66805 grants to the Township the authority to adopt and enforce a fire prevention code.

NOW, THEREFOR, be it ordained and enacted by the Board of Supervisors of the Township of South Middleton as follows:

Section 1: Title

This Ordinance may be known as cited as the "South Middleton Township Fire Prevention and Safety Code."

Section 2: Construction

In the interpretation of this Ordinance, the provisions shall be construed as follows:

- A. Any term in the singular shall include the plural and *vice versa*, unless the context otherwise clearly requires;
- B. Any term in the masculine shall include the feminine, neuter, or other;
- C. Any requirement or prohibition of any act shall respectively extend to and include the causing and procuring, directly or indirectly, of such act;

- D. Any reference to “this/the code” shall refer to the Township’s Fire Prevention and Safety Code;
- E. Any reference to the “Township” in this Ordinance or “jurisdiction” in this code shall be construed as, and deemed to reference, the Township of South Middleton;
- F. Any reference to the “Board of Supervisors” in this Ordinance or “appointing authority” in this code shall be construed as, and deemed to reference, the Board of Supervisors of the Township;
- G. Any reference or statement indicating the *Township* taking action, in an administrative, enforcement, or other official capacity, shall be construed as the Township officer, department, or committee, designated by the Board of Supervisors, as taking action;
- H. Any reference to the “*International Building Code*” in this Ordinance or this code shall be construed as, and deemed to reference, the “Township Building Code,” as adopted by Ordinance No. 2004-11, it being the intention of the Board of Supervisors that the Township Building Code be the controlling authority for the design and construction of new structures, as well as alterations, additions, changes in use or changes to occupied structures, in the Township;
- I. Any reference to “fire code official” in this Ordinance or this code shall be construed as, and deemed to reference, the “fire marshal” or his designee, depending on the circumstances;
- J. Any reference to the “Department of Fire Prevention” in this code shall be construed as, and deemed to reference, the “Office of Fire Marshal;”
- K. Any reference to “fire department” in this Ordinance or this code shall be construed as, and deemed to reference, the “Union Fire Company No. 1” and/or “Citizens Fire Company No. 1;”
- L. Any reference to “fire chief” in this Ordinance or this code shall be construed as, and deemed to reference, the fire chief(s) of the Township; and
- M. Any reference the “Township Manager” in this Ordinance shall include the “Assistant Township Manager,” or his designee;
- N. Unless the situation requires technical judgment that only the *fire code official* or other qualified emergency services official may render, any Township official has the authority to undertake any public safety enforcement action authorized under this code or other Township ordinance or regulation; and
- O. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the Township in line of duty or work as such, or by any person, his agent or employee, in the proper and necessary execution of the terms of any agreement with or employment of the Township.

Section 3: Scope

The provisions of this Ordinance shall govern the minimum conditions and standards for fire prevention and safety to structures and exterior premises of structures, including fire safety facilities and equipment to be provided.

Section 4: Responsibility

The owner of the premises subject to this code shall provide and maintain such fire prevention and safety facilities and equipment in compliance with these requirements. A person shall not occupy any premises that do not comply with the requirements of this code.

Section 5: Adoption of International Fire Code

That Sections 101 – 108.2, 109 – 302, 304 – 308.1.6.2, 311.1 – 311.2.2, 311.3, 311.5 – 312, 314 – 317, 401 – 403, 408, 501 – 507, 509, 3302, and 3308, as well as Appendices B and C, of a certain document, a copy of which is on file in the Codes Department of the Township, being marked and designated as the “*International Fire Code, 2009 Edition*,” as published by the International Codes Council be and is hereby adopted as the Fire Prevention and Safety Code of the Township of South Middleton, regulating and governing the safeguarding of life and property from fire hazards arising from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Prevention and Safety Code on file in the office of the Township are hereby referred to, adopted, and made part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 6 of this Ordinance.

Section 6: Modifications to Standards

The following sections of the *International Fire Code, 2009 Edition* are hereby added, amended, revised, or deleted as hereinafter set forth. Subsequent chapters, articles, divisions, and section numbers used in Section 6 of this Ordinance refer to the like-numbered chapters, articles, divisions, and sections of the *International Fire Code, 2009 Edition*, unless otherwise specified:

- A. *Section 101.1, Title*, is restated as follows:

101.1 Title. These regulations shall be known as the *Fire Prevention and Safety Code* of the Township of South Middleton, hereinafter referred to as “this/the code.”

- B. *Section 102.1, Construction and design provisions*, is amended by deleting subparts 2 and 3.

- C. *Section 102.4, Application of building code*, is restated as follows:

102.4 Application of building code. The design and construction of any new structures shall comply with the Uniform Construction Code, administered and enforced under the Municipal Building Code of the Township, as adopted by Ordinance No. 2004-11. Any alternations, additions, changes in use or changes in structure required by this code, which are within the scope of the Township Building Code, shall be made in accordance therewith.

- D. Section 102.4.1 is added to state:

102.4.1 Application of zoning ordinance. Nothing in this code shall be construed to repeal, cancel, modify, amend, or set aside any provisions of, or actions taken pursuant to, the Township's Zoning Ordinance (*Ordinance No. 2007-03, as amended*).

- E. *Section 102.5, Application of residential code*, is amended by inserting "Township Building Code" in place of the reference to the "*International Building Code*."
- F. *Section 102.6, Historic buildings*, is amended by deleting the last sentence: "Fire protection in designated historic buildings and structures shall be provided in accordance with an *approved* fire protection plan."
- G. Section 103 is amended by changing the title of the Section from "Department of Fire Prevention" to "Code Enforcement."
- H. *Section 103.1, General*, is restated as follows:

Section 103.1 General. The Office of Fire Marshal, within the Department of Community Development, is established and is under the direction of the Fire Marshal (hereinafter "*fire code official*"), who shall be appointed, together with any assistants, from time to time, by the Board of Supervisors. The function of the office shall be the implementation, administration and enforcement of the provisions of this code.

- I. *Section 103.2, Appointment*, is restated as follows:

Section 103.2 Appointment. The *fire code official* shall be appointed and removed pursuant to the prescribed procedures of the Township.

- J. *Section 103.3, Deputies*, is restated as follows:

Section 103.3 Assistants. In accordance with the prescribed procedures of the Township, and the concurrence of the Board of Supervisors, the *fire code official* shall have the authority to appoint one or more assistant fire marshals, other related technical officers, inspectors and other employees.

- K. Section 104.11.4 is added to state:

Section 104.11.4 Unlawful boarding or tampering with fire department equipment. A person shall not, without proper authorization from the fire official in charge of said fire department equipment, cling to, attach to, climb upon or into, or swing upon any fire department vehicle, whether the same is in motion or at rest, operate any emergency warning equipment, or manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps, or any equipment or protective clothing on, or part of, any fire department vehicle.

- L. Section 105.1 is restated as follows:

Section 105.1 General. Permits shall be in accordance with Sections 105.6.30, 105.6.31, and 105.6.36. Where reference is made in this Section for permits elsewhere in this code, and there are no provisions for issuing said permits by the *fire code official*, the *fire code official* shall waive the particular permit requirement.

- M. Section 105.3.9 is added to state:

Section 105.3.19 Permit issuance. A permit granted hereunder shall not be transferable nor shall any permit be extended beyond the time set fourth therein unless approved by the *fire code official*. When work is started without a permit, the permit fee shall be doubled.

- N. Section 105.6 is restated as follows:

Section 105.6 Required operational permits. The *fire code official* is authorized to issue operational permits for the operations set forth in the following sections only:

105.6.4	Carnivals and fairs
105.6.30	Open burning
105.6.31	Open-flame devices
105.6.36	Pyrotechnic special effects material (fireworks)

- O. Section 105.7 is restated as follows:

Section 105.7 Required construction permits. Under this code, the *fire code official* is authorized to issue construction permits for work as set forth in Section 105.7.14 only.

- P. Section 108.1, *Board of appeals established*, is restated as follows:

Section 108.1 Board of appeals. In order to hear and decide appeals of orders, decisions or determinations made by the *fire code official* relative to the application and interpretation of this code, any such appeals shall be made to the Township Board of Appeals established under the Township Building Code.

- Q. Section 108.1.1 is added to state:

Section 108.1.1 Application for appeal. Any person directly aggrieved by an order, decision, or determination made by the *fire code official* relative to the application and interpretation of this code shall have the right to appeal to the Board of Appeals provided that a written application for an appeal on a form provided by the Township is filed within ten (10) days after receipt or

posting of such order, decision or determination, along with the payment of an appeal hearing fee in an amount set from time to time by resolution of the Board of Supervisors.

R. *Section 109.3, Violation penalties*, is restated as follows:

Section 109.3 Violations and penalties. Any person who shall violate any provision of this code, or fail to comply with any of the requirements thereof, or any person who is in charge or stands *in loco parentis* to any child or children who have not arrived at the age of criminal responsibility and who have violated any provision of this code, or any person who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate issued under provisions of this code, shall be guilty of a summary offense, and upon conviction thereof, shall be punished by a fine of not less than \$100 or more than \$1,000, together with costs of prosecution, and in default of payment thereof, be committed to and imprisoned in the County Prison for a period not exceeding thirty (30) days.

S. Section 109.4 is added to state:

Section 109.4 Prohibited parking; exceptions; bus-loading zone; violations. Except if necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer, fire official, or traffic control device, a person shall not park a vehicle in any of the following places or manners:

- a. Within 15 feet of a fire hydrant;
- b. Within 20 feet of the driveway entrance to a fire station or within 75 feet of a fire station entrance on the opposite of the street;
- c. Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic;
- d. Within 500 feet of an accident at which a police officer, fire official, or other emergency personnel is in attendance;
- e. In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit;
- f. In a place or in a manner that blocks or hampers the immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building;
- g. Within 500 feet of a fire at which fire apparatus is in attendance. However, volunteer firefighters responding to an emergency event may park within 500 feet of the event in a manner not to interfere with fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this subsection; or
- h. In a place or in a manner that blocks access to a space clearly designated as a fire lane.

A person shall not move a vehicle not owned by the person into a prohibited area or away from a curb a distance that makes the parking unlawful.

T. Section 109.4.1 is added to state:

Section 109.4.1 Fines. For any violation of the parking requirements listed in Section 109.4 of this code, the fine for such an offense shall be \$25 per violation if paid within then (10) days of the violation, and, if not paid in this time, shall be increased to \$50 per violation.

U. Section 109.4.2 is added to state:

Section 109.4.2 Towing and storage fees. In addition to the above penalties, a person who violates this Section shall be responsible for all vehicle towing and storage costs incurred if the fire official in command at an emergency determines that the vehicle parked in violation of Section 109.4 must be towed to ensure public safety or fire department access to a building or emergency scene.

V. Section 109.5 is added to state:

Section 109.5 Enforcement. The *fire code official* or other designated Township official may issue tickets or citations for violations of this code.

W. Section 109.5.1 is added to state:

Section 109.5.1 Payment of fees; fines. Payment for any permit fees or fines arising from violations of this code shall be paid to the Township Treasurer for the general use of the Township, unless otherwise stated.

X. *Section 110.3, Summary abatement*, is amended by adding the following text:

Section 110.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the *fire code official* or the fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code, and the Township may collect the cost of abatement, together with a penalty of ten percent (10%) of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

Y. *Section 111.4, Failure to comply*, is amended to insert "\$600" in the first reference of [AMOUNT] and "\$1,000" in the second reference of [AMOUNT].

Z. A new section, Section 114 is added to state:

**SECTION 114
FALSE ALARMS**

114.1 False alarms prohibited. It shall be unlawful for any person owning, leasing, or occupying any premises to make or cause to be made a false alarm, directly or indirectly, when the alarm is caused by faulty detection or alarm equipment or by the negligence of said person. The status of an alarm is to be determined by the responding fire department or emergency services organization, and the decision as to the cause of the alarm, shall be final.

114.2 False alarm remediation. Upon notification of a false alarm, a written report shall be made within fourteen (14) days by the owner, lessee, or occupant to the *fire code official* outlining what steps have been taken to remedy future false alarms.

114.3 False alarm service fees. Service fees for false alarms assessed by the Township as follows:

<u>False Alarm (in a calendar year)</u>	<u>Fee</u>
- Third false alarm	Not to exceed \$50
- Fourth false alarm	Not to exceed \$100
- Fifth and subsequent false alarms	Not to exceed \$200

AA. *Section 202, General Definitions*, is amended by amending or adding the following terms:

APPLICANT. The person applying for a permit under this code or the person or group sponsoring an activity or event that requires a permit under this code.

AUTOMATIC ALARM (AUTOMATIC DIALER) NOTIFICATION APPLIANCE. See Section 902.1

CENTRAL STATION. An office of a private company to which remote alarm and supervisory signaling devices are transmitted and where personnel are in attendance at all times to supervise the circuits and investigate signals.

CLEAN WOOD. See Section 302

KEY (KNOX) BOX. See Section 502.1

NORMAL AGRICULTURAL OPERATION. As that term is defined in the Pennsylvania Right to Farm Act (3 P.S. § 952)

OUTDOOR FURNACE. See Section 302

PUBLIC SAFETY SERVICES. Any public or private activity, including but not limited to, police, fire, emergency medical services, hazmat, security, or transportation.

SCHOOL DISTRICT. South Middleton School District.

STREET. Any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, or other public way or highway set aside or open for purposes of vehicular traffic, including any berm, shoulder, or median strip thereof. The term may also be referred to as "road" or "highway."

BB. *Section 302, Definitions*, is amended by adding the following term:

CLEAN WOOD. Natural wood which has not been painted, varnished, or coated with a similar material; has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

OUTDOOR FURNACE. A self-contained unit designed to provide heat to a building or structure, located outside of that building or structure.

CC. *Section 304.1.2, Vegetation*, is amended by removing the final sentence: "Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the *International Wildland-Urban Interface Code*."

DD. *Section 307.1.1, Prohibited open burning*, is amended by inserting the following wording:

Section 307.1.1, Prohibited open burning. Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited. Furthermore, no open burning shall be permitted between dusk and dawn of any day or at any time on Sunday.

EE. *Section 307.2, Permit required*, is restated as follows:

Section 307.2, Permit; notification required. A permit shall be obtained from the *fire code official* in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled. Prior to engaging in any open burning activity exempted from this code, the person shall notify the *fire code official* and the County Emergency Communications Center at least 24 hours prior to such activity.

Exceptions:

1. Outdoor fires to cook food for human consumption provided the fire is contained to a fire ring, fireplace, charcoal or gas grill or other similar fireproof container.
2. Fires used exclusively for normal agricultural operations containing a minimum of ten (10) acres, provided that any such burning occurs at a distance of not less than 100 lineal feet from the nearest point of any building and not less than 100 lineal feet from any boundary line of the tract of land on which said burning is set to occur.

FF. Section 307.2.1 is added to state:

Section 307.2.1, Authorization. Where required by State law or regulation, open burning may only be permitted with prior approval from the Bureau of Air Quality Control or other State authority, provided that all conditions specified in the authorization are adhered to.

GG. Section 307.3, *Extinguishment authority*, is amended by inserting the following wording:

Section 307.3 Extinguishment authority. The *fire code official* is authorized to add additional restriction on, or to order the extinguishment by the permit holder, another person responsible, or the fire department of open burning that creates or adds to a hazardous or objectionable situation

HH. Section 307.3.2 is added to state:

Section 307.3.2 Environmental conditions. During periods of low humidity, drought, high wind or other adverse weather conditions, the *fire code official* may restrict open burning.

II. Section 307.4, *Location*, is amended by inserting the following wording:

Section 307.4, Location. Excepting delineated distances for normal agricultural operations as provided for in Section 307.2 of this code, the location for open burning shall not be less than 50 feet (15,240 mm) of any structure....

JJ. Section 307.4.1 *Bonfires*, is restated as follows:

Section 307.4.1 Bonfires.

- A. A bonfire shall not be conducted within 100 lineal feet of a structure, combustible material, or a boundary line of the tract of land on which said bonfire occurs. Conditions that could cause a fire to spread to within 100 lineal feet of a structure shall be eliminated prior to ignition.
- B. The fuel for a bonfire shall not be more than five (5) feet long by five (5) feet wide by five (5) feet high in dimension and shall not burn longer than three (3) hours. The size and duration of a bonfire shall only be increased with the approval of the *fire code official*.

- C. Fuel for a bonfire shall consist of only seasoned, dry firewood and shall be ignited with a small quantity of paper.

KK. Section 307.6 is added to state:

Section 307.6 Outdoor furnaces. The operation of outdoor furnaces shall be in accordance with Sections 307.4.3.1 through 307.4.3.10 of this code.

Section 307.6.1 Where authorized. An outdoor furnace shall only be allowed in the Agricultural & Conservation (AC) and Woodland Conservation (WC) zoning districts as identified in the Township's Zoning Ordinance (*Ordinance No. 2007-03, as amended*).

Section 307.6.2 Authorized time of usage. Use of outdoor furnaces shall be limited to October 1 to May 1.

Section 307.6.3 Fuel. Only dry clean fuel or coal may be burned. Lighter fluids, gasoline, or other chemicals to start or fuel the furnace are strictly prohibited.

Section 307.6.4 Lot restrictions. Furnaces may only be utilized on lots or parcels of land of three and $\frac{1}{4}$ (3.25) or more acres. For the purposes of meeting this minimum lot area requirement, the owner of any lot having an area of less than 3.25 acres may utilize an easement area, granted by all legal owners of property abutting the property that is less than 3.25 acres, subject to the following conditions and requirements:

- A. The easement area shall be specifically for purposes of allowing the use of an outdoor furnace;
- B. The easement area shall be of a uniform equal distance from both side yard, rear yard, and, where applicable, front yard property boundaries of the property for which benefit the easement is granted;
- C. The area of the lot upon which the boiler is to be utilized together with the area of the easement granted by the adjoining property owner(s) shall be no less than 3.25 acres;
- D. The easement shall be documented by an easement instrument that shall be recorded in the office of the Recorder of Deeds which instrument shall describe or depict the dimensions of the easement area with specific reference to the boundaries of the property benefiting from the easement;
- E. The easement granted shall run in perpetuity unless it is extinguished by mutual recorded agreement executed by the owner of the property receiving the benefit of the easement and the owner of the property that had granted the easement, or their respective successors or assigns in title, provided that the boiler is first removed from the property and prior to notice thereof provided to the Township;
- F. The easement instrument shall be approved by the Township Solicitor prior to recording, and once recorded, evidence of recording shall be provided to the Township; and

G. The furnace shall not be constructed, erected, or placed on the property prior to the cording of the easement instrument.

Upon approval and recording of the easement instrument, the boundaries of the easement area shall be considered the lot lines for the lot on which the boiler is placed, only for the limited purposes of the setback requirements from rear and side lot lines as specified in *Section 307.4.3.4, Setbacks*; however, no furnace may be constructed, erected, or placed within any easement area granted.

Section 307.6.5 Setbacks. An outdoor furnace shall be set back at least 200 feet from the front lot line and 100 feet from the side and rear lot lines and 500 feet from the nearest residential structure not on the lot where the boiler is located.

Section 307.6.6 Installation and operation. An outdoor furnace shall installed, used, and operated in accordance with the manufacturer’s instructions, as well as all applicable local, State, or Federal laws, regulations, and guidelines.

Section 307.6.7 Stack height. Stack height shall be at least 20 feet or at least two (2) feet above the roof of the highest structure within 200 feet.

Section 307.6.8 Spark arrestor. An outdoor furnace shall be equipped with a properly functioning spark arrestor.

Section 307.6.9 Use as incinerator prohibited. An outdoor furnace shall not be used as a waste incinerator.

Section 307.6.10 Nuisance. The use of an outdoor furnace shall not cause a nuisance to neighboring or other property.

LL. Section 307.6 is added to state:

Section 307.6 Extinguishment. All open burning shall be completely extinguished before dusk.

MM. Section 307.7 is added to state:

Section 307.7 Burning of waste material prohibited. Open burning of waste material, including, but not limited to, construction and demolition waste, but excluding trees, logs, brush, grass clippings, and other vegetative matter.

NN. *Section 311.1.1, Abandoned premises*, is amended by removing the reference to the “*International Property Maintenance Code*.”

OO. *Section 315.1, General*, is amended by removing the last sentence: "A permit shall be obtained in accordance with Section 105.6."

PP. Section 501.3, Construction documents, is amended by replacing the term "fire department" with "Department of Community Development."

QQ. *Section 503.6, Security gates*, is amended by replacing the term "fire chief" with "*fire code official*."

RR. *Section 505.1, Address identification*, is restated as follows:

Section 505.1 Address identification. New and existing buildings, including residential houses, places of business, and other such structures, shall be conspicuously numbered for identification purposes. "Conspicuously numbered" shall include, but not be limited to, illuminated and reflective numbers placed in such a location to be visible from the street. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.

SS. Section 506 is repealed in its entirety and replaced with the following:

SECTION 506 KEY LOCK BOXES

Section 506.1 Where required. All commercial or industrial structures, multi-family residential and apartment complexes, governmental buildings, nursing care facilities, educational buildings, places of assembly (including houses of worship), structures that have restricted access through locked doors, and all other structures the *fire code official* deems as an at-risk property in the Township, shall be equipped with a key box when any of the following exists:

1. A structure is protected by an automatic fire suppression or standpipe system and not continuously manned (i.e. 24-hours, seven days a week, 365 days a year);
2. A structure is protected by an automatic fire alarm system that includes an automatic dialer that sends an alert to a central station, and includes an external alarm;
3. A structure is the site for the handling, usage, or storage of hazardous materials, or is required to prepare emergency services material safety data sheets (MSDS), or hazardous chemical inventory forms under the Superfund Amendments and Reauthorization Act of 1968 (SARA Title III); or
4. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or firefighting purposes.

Exceptions:

1. Owner-occupied one- and two-family dwellings

2. Individual townhouse units

Nothing in this Section restricts property not required to install a key lock box from doing so, provided that the property owner or operator follows the requirements of this Section.

Section 506.1.1 Locks. An *approved lock* shall be installed on gates or similar barriers when required by the *fire code official*. The owner or operator of a structure subject to this Section shall at all times keep a key(s) in the lock box that will allow access to the structure. At minimum, the key box shall contain the following:

- A. Keys to all locked points of egress, whether in the interior or exterior of the structure;
- B. Keys to all locked mechanical rooms;
- C. Keys to all locked elevator rooms and controls;
- D. Keys to any fence or secured area;
- E. Keys to any other area that may be required by the *fire code official* after a written notice pursuant to Section 506.2;
- F. Keys to all areas of the structure where fire alarm panels and fire protection system are located;
- G. A card containing the emergency contacts and phone numbers for the structure; and
- H. An inventory of the keys, posted in the lock box, as may be required by the *fire code official*.

In lieu of having the interior keys in the exterior lock box, a second lock box may be located within the main lobby of the structure to hold these keys.

Section 506.2 Key box installation notification. Upon written notice by the Township, the owner of a structure subject to this Section shall have 30 days to install a key lockbox.

Section 506.3 Key box maintenance. The property owner or operator shall immediately notify the *fire code official* and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

Section 506.4 Location. The key lock box required by this code shall be installed on the front of the building (side 1) near the main entry door and between six (6) and eight (8) feet above the ground unless approved at a higher or lower level by the *fire code official*.

Section 506.4.1 Security. No steps, displays, signs, or other fixtures or structural protrusions may be located under the box which would allow unauthorized access to the box without assistance.

Section 506.5 Security padlocks. When a property contains a building or structure that is protected by a locked fence or gate, the *fire code official* may require a knox padlock to be installed at a location approved by the *fire code official* upon consultation with the fire company.

Section 506.6 Mandatory installation. Upon the failure of the property owner or operator to install a key lock box after receiving notification by the Township to do so, the Township may enter the property and install a lock box at the owner or operator's expense.

TT. Section 3308, FIREWORKS DISPLAY, is deleted in its entirety and restated as follows:

**SECTION 3308
FIREWORKS AND OTHER PYROTECHNICS**

Section 3308.1 General. Outdoor fireworks displays, use of pyrotechnics before a *proximate audience*, and pyrotechnic special effects in motion picture, television, theatrical and group entertainment productions shall comply with Sections 3308.2 through 3308.13.

Section 3308.1.1 Intent. It is the intent of the Township to protect the health, safety, and welfare of the general public through limiting the use of fireworks and other pyrotechnic devices, and to adhere to the provisions of the *State Fireworks Law of 1939, as amended*, the provisions of which require the Township to adopt an ordinance if it intends to authorize the display of fireworks within its jurisdiction. Fireworks by nature contain explosives which when misused can damage property and endanger human life. Certain other pyrotechnic devices have been deemed by fire prevention and protection professionals from across the country as serious fire and safety hazards. This code prohibits the use of pyrotechnic devices and consumer and display fireworks by the general public but allows for certain fireworks displays to be put on by competent professional pyrotechnicians in a safe manner.

Section 3308.1.2 Definitions. The following words and terms shall, for the purposes of this Chapter and as used elsewhere in this code, shall have the meanings shown herein.

DISCHARGE SITE. The area immediately surrounding the fireworks mortars used for an outdoor fireworks display.

DISPLAY SITE. The immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance or minimum secured diameter from mortars to spectator viewing areas as provided for in Section 5.1.3 (*Minimum Site Size Requirements*) of NFPA 1123 (*Code for Fireworks Display*) (2010 Edition) as also shown in Table 3308.2.1, but not including the spectator viewing area or vehicle parking areas.

FALLOUT AREA. The area over which aerial shells are fired. The shells burst over the area, and unsafe debris and malfunctioning aerial shells fall into this area. The fallout area is the location where a typical aerial shell dud falls to the ground depending on the wind and the angle of mortar placement.

FIREWORKS. Shall mean both consumer and display fireworks as defined herein, unless specifically identified as either consumer or display fireworks.

CONSUMER FIREWORKS. Any combustible or explosive composition or any substance or combination of substances, intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition, and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and which complies with the provisions for “consumer fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

DISPLAY FIREWORKS. As that term is defined in 27 CFR § 555.11.

FIREWORKS DISPLAY OR PUBLIC DISPLAY OF FIREWORKS. A presentation of fireworks for a public or private gathering.

IMPACTED PROPERTY. Any real property who proximity to a fireworks display that meets any of the following:

1. In the AC zone as delineated by the Zoning Ordinance (*Ordinance No. 2007-03, as amended*) and located within a 1,100 foot radius of the discharge site, or the minimum secured diameter of the display site plus 100 feet, whichever is greater;
2. In all other zoning districts, located within a 100 foot radius of the display site; or
3. In the determination of the *fire code official*, warrants notification beyond those provided for in Section 3308.2.3.

MINIMUM SECURED DIAMETER. The radius at least as great as specified for those items in the display with the greatest required radius between mortars to spectators.

MORTAR. A tube, closed at one end, from which certain aerial devices are fired into the air.

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA). Organization which provides several standards that outline recommendations for the manufacture, storage, transportation, and execution of fireworks.

PYROTECHNIC COMPOSITION. A chemical mixture that produces visible light displays or sounds through a self-propagating, heat-releasing chemical reaction which is initiated by ignition.

PYROTECHNIC DEVICE. Any device containing pyrotechnic materials and capable of producing a special effect.

PYROTECHNIC SPECIAL EFFECT. A special effect created through the use of pyrotechnic materials and devices.

PYROTECHNIC MATERIAL. A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, *deflagration* or *detonation*. Such a chemical mixture predominantly consists of solids capable of producing a controlled, self-sustaining and self-contained exothermic chemical reaction that results in heat, gas sound, light or a combination of these effects. The chemical reaction functions without external oxygen.

PYROTECHNICS. Controlled exothermic chemical reactions timed to create the effects of heat, hot gas, sound, dispersion of aerosols, emission of visible light or a combination of such effects to achieve the maximum effect from the least volume of pyrotechnic composition.

Section 3308.2 Permit application. A permit shall be obtained from the *fire code official* in accordance with Section 105.6. Prior to issuing permits for fireworks display, plans for the fireworks display, inspections of the display site, and demonstrations of the display operations shall be *approved*. A plan establishing procedures to follow and actions to be taken in the event that a shell fails to ignite in, or discharge from, a mortar or fails to function over the fallout area or other malfunctions shall be provided to the *fire code official*. An application for a fireworks display must be completed and submitted for Township approval at least 45 days in advance of the display.

3308.2.1 Outdoor fireworks display. In addition to the requirements of Section 403, permit applications for outdoor fireworks displays shall include the following:

1. A copy of the Certification of Insurance in accordance with Section 3308.2.2;
2. Written permission from the owner or operator of the property on which the display will be located for use of the property for the fireworks display;
3. Written comments from the *fire code official*;
4. In accordance with Section 3308.2.3, a copy of the notice that will be sent to impacted properties or placed in the newspaper, if applicable;
5. A list of three (3) references from the fireworks display company or operator including the names, addresses, and phone numbers of individuals/organizations responsible for organizing the reference fireworks display;
6. Graphic representation of the display site using Table 3308.2.1 as a guide; and
7. Size of the largest shell to be used for the fireworks display.

TABLE 3308.2.1

DISTANCES FOR OUTDOOR AERIAL SHELL DISPLAY SITES: A GUIDE FOR MINIMUM SEPARATION DISTANCES FROM MORTARS TO SPECTATORS FOR LAND AND WATER DISPLAYS AND THE NOTIFICATION OF IMPACTED PROPERTIES

NFPA 1123, *Code for Fireworks Display*
(2010 Edition)

Table 5.1.3.1 Distances for Notifications for Impacted Properties

Mortar Size		Minimum Secured Diameter of Site		Vertical Mortars		Angled Mortars 1/3 Offset		Mortars to Special Hazards	
		ft	m	ft	m	ft	m	ft	m
≤ 1	25	150	46	75	23	75	23	150	46
1.5	38	210	64	105	32	75	23	210	64
2	50	280	85	140	43	95	29	280	85
2.5	63	350	107	175	54	115	35	350	107
3	76	420	128	210	64	140	43	420	128
4	102	560	171	280	85	190	58	560	171
5	127	700	213	350	107	230	70	700	213
6	152	840	256	420	128	180	85	840	256
7	178	980	299	490	149	320	98	980	299
8	203	1120	341	560	171	370	113	1120	341
10	254	1400	427	700	213	460	140	1400	427
12	305	1680	512	840	256	560	171	1680	512

Note: >12 in. (>305 mm) requires approval of the Township.

3308.2.2 Liability insurance. The permittee or licensee shall hold or obtain a bond or liability insurance in an amount no less than \$1,000,000 in case of damages caused to any person or persons, and to any property by reason of the licensed display and arising from any acts of the licensee, or licensee's agents, employees or subcontractors. The certificate of insurance, or other satisfactory evidence to the Township of proof of insurance, shall be filed with the Township Secretary before any permit for a supervised fireworks display is issued.

3308.2.3 Notification.

1. Any person, whether public or private, intending to have an approved fireworks display shall be permitted to do so upon making a reasonable effort to provide notification to all impacted property owners, if known, no more than 45 days and no less than 20 days prior to the scheduled display. The notice shall include the following:

- a. Name, address, and phone number of the individual, group, or organization sponsoring the fireworks display;
- b. Name and phone number of a contact person directly responsible for organizing the fireworks display, if different from the person named in Section 3308.2.3.a;
- c. Reason for the fireworks display;

- d. Name, address, and phone number of the company and/or person doing the fireworks display; and
 - e. Date, time, and location of the fireworks display.
2. Notification of a private fireworks display may be given through notices distributed by hand or other means or through an advertisement in a newspaper of general circulation, as defined by 45 Pa. C.S. § 101. For public displays put on, sponsored, or hosted by the Township or School District, a notice shall only be required to be posted on the Township's website.
3. Notification shall be provided for any testing of the fireworks prior to the date of the actual approved display.

3308.3 Approved fireworks displays. *Approved* fireworks displays shall be permitted in the all zoning districts as delineated by the Zoning Ordinance (*Ordinance No. 2007-03, as amended*). Such displays shall include only the *approved* fireworks, which shall be handled by an *approved*, competent operator, trained to pub on fireworks displays.

3308.3.1 Pyrotechnic devices prohibited. It shall be unlawful for any person to ignite or launch a pyrotechnic device, other than fireworks approved under this code, within the limits of the Township.

Exception. Devices such as "ground and hand-held sparkling devices," "novelties" and "toy caps" in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout the Township

3308.3.2 Fireworks for agricultural purposes. The Board of Supervisors, under reasonable rules and regulations, may grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from animal damage. Such permits shall only be good for the calendar year issued. After such permit has been granted, the sale, possession, or use of fireworks for the type and purpose mentioned in the permit shall lawful for that purpose only.

3308.4 Clearances. Fireworks shall be arranged, located, discharged and fired in a manner that will not pose a hazard to property or endanger any person, and shall follow generally-accepted principles related to the safe possession, transportation, display, and disposal of fireworks, as well as all applicable local, State, and Federal laws and regulations.

3308.5. Storage of fireworks at display site. Fireworks shall be stored in a safe and secure manner. Beginning as soon as the fireworks have been delivered to the display site, they shall be protected from the weather at all times and not left unattended.

3308.6 Installation of mortars. Mortars for firing firework shells shall be installed in accordance with NFPA 1123 and shall be positioned so that shells are propelled away from spectators and

over the fallout area. Under no circumstances shall mortars be angled toward the spectator viewing area. Proper inspection of mortars, shells, and equipment is required.

3308.7 Handling. Aerial shells shall be handled in generally-accepted principles related to the safe handling of fireworks.

3308.8 Fireworks display supervision. In the event of any violation of this Section or the terms, conditions, or limitations noted on the permit for the display of fireworks, or in the event of any unsafe condition occurring before or during the course of a fireworks display, or in the event of any unsafe condition occurring as a result of any use of fireworks, a police officer, the fire code official, fire department personnel, or any other authorized Township representative may, before or during the unsafe and/or violating occurrence, order such activity to cease or fireworks use or display to be discontinued immediately.

3308.9 Post-fireworks display. As soon as practical after the fireworks display, the firing crew shall conduct an inspection of the fallout area for the purpose of locating unexploded aerial shells or live components. This inspection shall be conducted before public access to the site shall be allowed.

3308.10 Disposal. Shell disposal shall be done in a manner consistent with generally-accepted principles, as well as all applicable local, State, and Federal laws and regulations.

3308.11 Weather disruption. If by reason of unfavorable weather, the display for which a permit has been granted does not take place at the time authorized, the person to whom such permit was issued may apply to the Township within 24 hours, setting forth under oath the fact that such display was not made, the reason, and request for a continuance of such permit for a specifically designated day, no later than one (1) week after the day fixed originally in said permit. Upon receiving such application for a continuance, the Township, if it believes the facts stated therein are true, shall extend the provisions of the permit to the day fixed in the application, no later than one (1) week after the original day designated in the permit. Such extension of time shall be granted without the payment of any additional fee and without requiring any additional bond or proof of insurance other than the one given for the original permit, provided however that the extended time period and display shall meet the requirements of this code.

3308.12 Warning and disclaimer of liability. The degree of protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable safety methods for pyrotechnic displays. The use of fireworks, even by a competent operator in a properly-secured location and conducted in a sound manner, still has the potential for harming, injuring, or resulting in the death of people and animals, damaging or destroying property, and harming the environment. This code shall not create liability on the part of the

Township or any officer or employee thereof for any injury or damage that result from reliance on this code or any administrative decision lawfully made there under.

Section 6: Severability

If any chapter, article, division, section, sentence, clause, or part of this Ordinance is found to be unconstitutional, illegal, or invalid, such findings shall not affect or impair any of the remaining parts of this Ordinance. It is hereby declared to be the intent that this Ordinance would have been adopted had such part not been included.

Section 7: Repeals

This Ordinance shall repeal the following:

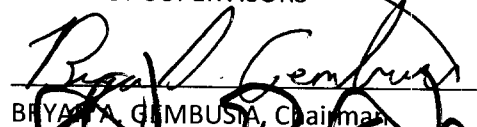
- A. Ordinance Nos. 1993-11, 1993-12, 2001-14, 2004-18, 2013-01, and 2016-07; and
- B. Any other Township regulation or policy which is inconsistent herewith.

Section 8: Effective Date

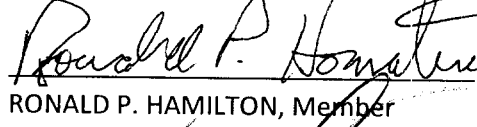
This ordinance shall take effect 60 days after adoption.

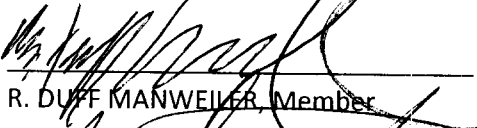
ENACTED AND ORDAINED this 9th day of February, 2017.

TOWNSHIP OF SOUTH MIDDLETON
BOARD OF SUPERVISORS


BRYAN A. GUMBUSTA, Chairman

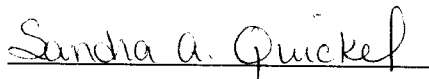

THOMAS E. FALEY, Vice Chairman


RONALD P. HAMILTON, Member


R. DUFF MANWEILER, Member


WALTER G. REIGHARD, Member

ATTEST


SANDRA A. QUICKEL, Secretary