

ORDINANCE No. 163

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP, LEHIGH COUNTY,
PENNSYLVANIA AMENDING UPPER MILFORD TOWNSHIP
ORDINANCE NO. 129 KNOWN AS THE PERKIOMEN CREEK
HEADWATERS ACT 167 STORMWATER MANAGEMENT
ORDINANCE TO PROVIDE ADDITIONAL EXEMPTIONS AND
DEFINITIONS**

WHEREAS, Upper Milford Township, (“Township”), is a Second Class Township located in Lehigh County, Pennsylvania; and

WHEREAS, the Township has previously enacted Ordinance No. 129 known as the Perkiomen Creek Headwaters Act 167 Stormwater Management Ordinance (“Ordinance”); and

WHEREAS, after careful study, the Board of Supervisors of the Township is desirous of providing additional exemptions from the Ordinance as well as new definitions

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania, as follows:

1. The aforementioned recitals are incorporated herein as fully as though the same were set forth at length.
2. Section 106.A is modified to read as follows:
 - A. Impervious Cover - Any proposed Regulated Activity, except those defined in Section 105.E through 105.H, which would create 4,000 square feet or less of additional impervious cover, is exempt from the Drainage Plan preparation provisions of this Ordinance. If a site has previously received an exemption and is proposing additional

development such that the total impervious cover on the site exceeds 4,000 square feet (or 10,000 square feet in the case of a normal agricultural operation), the total impervious cover on the site proposed since the original ordinance date must meet the provisions of this Ordinance. The date of the Township Ordinance adoption of the original Perkiomen Creek Headwaters Act 167 Stormwater Management Ordinance (December 29, 2010) shall be the starting point from which to consider tracts as “parent tracts” in which future subdivisions and respective impervious area computations shall be cumulatively considered. For development taking place in stages, the entire development plan must be used in determining conformance with these criteria. Additional impervious cover shall include, but not be limited to, additional indoor living spaces, decks, patios, garages, driveways, storage sheds and similar structures, and roof, parking or driveway areas and any new streets and sidewalks constructed as part of or for the proposed Regulated Activity. Notwithstanding the foregoing, neither the water surface area of a pool nor a deck with spacing between the planks that allows the stormwater to drain to a pervious surface under the deck with an area equivalent to the deck shall be considered pervious cover. Any additional areas proposed initially to be gravel, crushed stone, porous pavement etc. shall be assumed to be impervious for the purposes of comparison to the exemption criteria. Any existing gravel, crushed stone or hard packed

soil areas on a site shall be considered as pervious cover for the purpose of exemption evaluation.

3. Section 106.B is modified to read as follows:
 - B. Normal Agricultural Operation – A normal agricultural operation which would create 10,000 square feet or less of additional impervious cover is exempt from the Drainage Plan preparation provisions of this Ordinance, provided that the requirements of 25 PA Code 102 et seq. are met.
4. Section 106.C is modified to read as follows:
 - C. Forestry and Timber Harvesting - Forestry and timber harvesting are exempt from the Drainage Plan preparation provisions of this Ordinance, provided that the requirements of 25 PA Code 102 et seq. are met.
5. Section 106.D is modified to read as follows:
 - D. High Tunnels – High Tunnels meeting the requirements of the Storm Water Management Act, used in normal agricultural operations are exempt from the provisions of this Ordinance.
6. Section 106.E is modified as follows:
 - E. Prior Drainage Plan Approval – Any Regulated Activity for which a Drainage Plan was previously prepared as part of a subdivision or land development proposal that received preliminary plan approval from the Township prior to the effective date of this Ordinance is exempt from the Drainage Plan preparation provisions of this Ordinance except as

cited in Section 106.G, provided that the approved Drainage Plan included design of stormwater facilities to control runoff from the site currently proposed for Regulated Activities consistent with ordinance provisions in effect at the time of approval, and the approval has not lapsed under the Municipalities Planning Code. If significant revisions are made to the Drainage Plan after both the preliminary plan approval and the effective date of this Ordinance, preparation of a new Drainage Plan, subject to the provisions of this Ordinance, shall be required. Significant revisions would include a change in control methods or techniques, relocation or redesign of control measures or changes necessary because soil or other conditions are not as stated on the original Drainage Plan

7. Section 106.F is added as follows:

F. Activities associated with 105.H shall be exempt from the Drainage Plan preparation requirements of the Ordinance unless the Township determines that the activity could create a new or relocated concentrated drainage discharge onto adjacent property. Agricultural plowing and tilling as may be covered by Section 105.H are exempt from the Drainage Plan preparation requirements of the Ordinance.

8. Section 106.G is added as follows:

G. These exemptions shall not relieve the applicant from implementing such measures as are necessary to protect health, safety, property, and State Water Quality Requirements. These measures include

adequate and safe conveyance of stormwater on the site and as it leaves the site. These exemptions do not relieve the applicant from the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act or ordinance.

9. Section 106.H is added as follows:

H. No exemption shall be provided for Regulated Activities as defined in Sections 105.E. through 105.G.

10. The following definitions are added to Article 2:

FORESTRY: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes and which does not involve any land development.

NORMAL AGRICULTURAL OPERATION: The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is:

- (1) Not less than ten contiguous acres in area; or
- (2) Less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry.

Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

TIMBER HARVESTING ACTIVITIES: Earth disturbance activities including the construction of skid trails, logging roads, landing areas, and other similar logging or silvicultural practices.

11. The provisions of this Ordinance are severable and, if any of its provisions shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

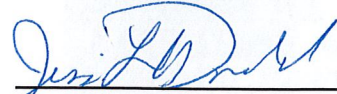
12. All Ordinances or parts of Ordinances which are inconsistent with the terms of this Ordinance are hereby repealed.

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

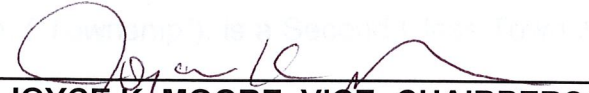
ORDAINED AND ENACTED THIS 16th DAY OF May, 2019.

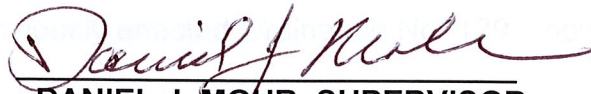
ATTEST:

BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP


Secretary

By: MA CSK
ROBERT C. SENTNER, CHAIRPERSON


JOYCE K. MOORE, VICE- CHAIRPERSON


DANIEL J. MOHR, SUPERVISOR