

TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA

ORDINANCE NO. 81- A

WHEREAS, Article XVI of the Second Class Township Code grants to the Supervisors the authority to, among other things, enact ordinances regulating building, housing, property maintenance, health, public safety, curfew and noise pollution and to proscribe certain criminal penalties not to exceed \$1,000.00 per day or imprisonment to the extent allowed by law for the punishment of summary offenses; and

WHEREAS, Article XVI grants also to the Board of Supervisors the authority to provide for the enforcement of such ordinances in actions brought before district justices in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, or, alternatively, for the enforcement of such ordinances in the court of common pleas; and

WHEREAS, the Supervisors find that commercial construction activities in the Township create noise, dust, fumes and other disturbances; and

WHEREAS, the Supervisors find that commercial construction activities, unregulated by the imposition of reasonable work hours, have a negative impact on the quality of life within the Township specifically and the public health, safety and general welfare, generally; and

WHEREAS, the Supervisors find that it is appropriate to place reasonable regulations upon commercial construction activities; and

WHEREAS, the Supervisors find that significant, commercial construction activities are occurring in, about and around existing, residential neighborhoods with the result being that Township residents have suffered and will suffer disturbances and negative impacts upon the quality of their lives; and

WHEREAS, the Supervisors find that commercial construction activities typically occur with a greater degree of regularity and intensity than non-commercial construction activities and as such have a greater degree of impact, and thus a greater potential to disturb and negatively impact, on quality of life in the Township; and

WHEREAS, the Board of Supervisors conclude that it is appropriate to place reasonable restrictions on the times during which commercial construction activities may take place within the Township.

NOW THEREFORE, the Supervisors of Upper Saucon Township hereby enact and ordain that:

1. This Ordinance shall apply within all residential zoning districts in Upper Saucon Township and to all tracts of land which in whole or in part abut an Upper Saucon Township residential zoning district. For the purpose of this Ordinance, a tract of land shall be deemed to "abut" a residential zoning district where said tract is, in whole or in part, adjacent to or contiguous with such district, even if separated by a public or private road, street or intersection.

2. No person shall engage in "commercial construction activities" in areas designated in paragraph 1, above, before 7:00 a.m. or after 7:00 p.m. (prevailing time) on Monday through Friday, and before 8:00 a.m. or after 7:00 p.m. on Saturday.

3. No person shall engage in "commercial construction activities" in areas designated in paragraph 1, above, on a Sunday.

4. "Commercial construction activities" may take place in areas designated in paragraph 1, above, outside the time frames specified in Paragraphs 2 and 3, above, provided that any person desiring to undertake such activities first obtains an emergency permit from the Township Manager. The issuance of any such permit shall be at the sole discretion of the Township Manager and shall be based upon a finding that there exists a specific and immediate threat to the public health, safety and/or general welfare and/or a specific and immediate threat to the well-being of persons, property or the environment such that the performance of "commercial construction activities" are necessary to prevent the threat from occurring or to remedy a harm which has actually occurred. The burden of presenting such evidence shall be upon the permit applicant

5. Definitions.

a. **Construction.** As used in this Ordinance, the term "construction" shall include all of the following tasks or activities as they relate to real or personal property: building, assembling, remodeling, renovating, altering, installing, maintaining, repairing, cleaning, landscaping, planting, cutting, clearing, hauling, equipment operating, power tool operating, earth moving, digging, demolishing and using any tools or equipment to carry out each task or activity included in this definition.

b. **Commercial construction activities.** The phrase "commercial construction activities" shall be defined as any and all forms of construction performed for consideration, whether or not performed pursuant to a written contract or agreement. Where not performed for consideration, the phrase "commercial construction activities" shall include any construction in which the landowner has a commercial interest.

c. **Person.** The term "person" shall be defined as any individual, partnership, firm, limited liability company or partnership, public or private corporation, incorporated or unincorporated association, enterprise or any other legal entity and, including without limitation with respect to each of the above, any agent, servant or employee thereof.

6. Any person who violates a provision of this Ordinance shall, in an action brought before a district justice and upon conviction thereof, be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense, and in default of payment, imprisonment for a term not exceeding thirty (30) days. Each day or portion thereof for which a violation of this Ordinance is found to occur shall constitute a new and separate offense.

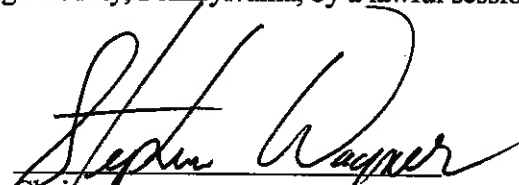
7. No provision of this Ordinance shall preclude the Township from pursuing all other, available legal remedies for violation hereof, including but not limited to enforcement by an action in equity in the Court of Common Pleas of Lehigh County.

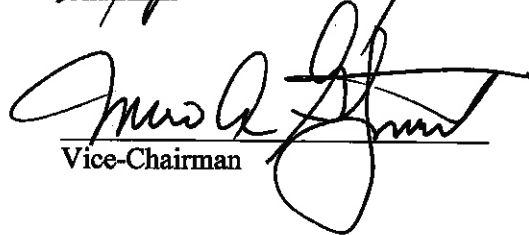
8. All ordinances or parts of ordinances inconsistent with the provisions hereof are hereby repealed.

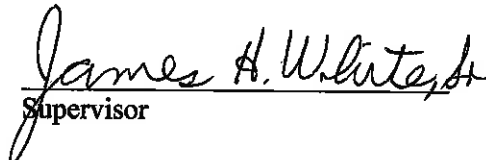
9. To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those valid portions of the text shall remain in full force and effect if the same can be accomplished without the structure of the ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

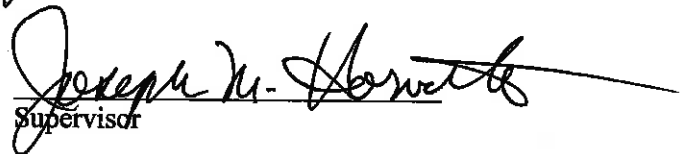
10. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

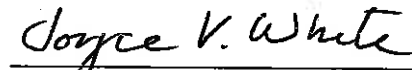
DULY ENACTED AND ORDAINED this 8th day of May, 2006, by the Board of Supervisors of Upper Saucon Township of Lehigh County, Pennsylvania, by a lawful session duly assembled.


Chairman



Vice-Chairman


Supervisor


Supervisor


Supervisor

ATTEST:


Secretary