

**TOWNSHIP OF UPPER BERN  
COUNTY OF BERKS  
COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE NO. 155 OF 2020**

**A ORDINANCE OF THE BOARD OF SUPERVISORS OF UPPER BERN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, TO ESTABLISH THE TOWNSHIP AS A SECOND AMENDMENT SANCTUARY MUNICIPALITY, PROHIBITING CERTAIN ACTIONS AND THE USE OF TOWNSHIP FUNDS IN WAYS THAT ARE INCONSISTENT WITH THE SECOND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PERMITTING CERTAIN RESTRICTIONS ON GUN OWNERSHIP AND POSSESSION, AND AUTHORIZING ENFORCEMENT AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.**

***NOW THEREFORE, BE IT ORDAINED*** by the Board of Supervisors of Upper Bern Township (the "Board"), in lawful session duly assembled, hereby enact as follows:

**Section 1:**     Title. The title of this Ordinance shall be known as the "Second Amendment Sanctuary Ordinance," or "SASO."

**Section 2:**     Findings. The Board finds and declares:

A. Acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs;

B. The Second Amendment to the United States Constitution states, "A well-regulated Militia being necessary to the security of a free State, the right of the People to keep and bear arms, shall not be infringed.";

C. Article I, Section 21 of the Constitution of the Commonwealth of Pennsylvania states, "The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.";

D. The right of the people to keep and bear arms is further protected from infringement by States and Local Governments under the Tenth and Fourteen Amendments to the Constitution of the United States of America;

E. The Supreme Court of the United States of America in *District of Columbia v. Heller*, recognized the individual's right to keep and bear arms, as protected by the Second Amendment of the Constitution of the United States of America. Justice



Antonin Scalia's prevailing Opinion in that case stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and the right to use that firearm for traditionally lawful purposes, such as self-defense within the home;

F. Section 1 of the Fourteenth Amendment to the Constitution of the United States of America states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.";

G. The Supreme Court of the United States recognized in *McDonald v. City of Chicago*, that the Second Amendment to the Constitution was incorporated by the Fourteenth Amendment and thereby made applicable to the States;

H. The right to be free from the commandeering hand of government has been recognized by the United States Supreme Court in *Printz v. United States*. The Court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program.";

I. Therefore, the right to keep and bear arms is a fundamental individual right that shall not be infringed;

J. Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Second Amendment Sanctuary for law-abiding citizens in their cities and counties;

K. Therefore, through the enactment of this Ordinance, Upper Bern Township, Berks County, Pennsylvania, is hereby a Second Amendment Sanctuary.

### **Section 3: Prohibitions.**

A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Upper Bern Township, Berks County, a political subdivision of the Commonwealth of Pennsylvania, while acting in their official capacity, shall:

1. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.

2. Utilize any assets, Upper Bern Township funds, or funds allocated by any entity to Berks County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act in connection with personal firearms, firearm accessories, or ammunition.



B. This Ordinance does not regulate the lawful ownership, possessions, transfer or transportation of firearms, ammunition or ammunition components. On the contrary, this Ordinance prohibits the enforcement of Unlawful Acts or use of assets, Upper Bern Township funds, or funds allocated by any entity to Berks County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act.

**Section 4:** Penalties.

A. An "Unlawful Act" shall consist of any federal or state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any federal or state act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition (other than a fully-automatic firearm manufactured on or after May 19, 1986, possession of which is generally prohibited under federal law), except in accordance with Protection From Abuse Orders, criminal statutes prohibiting possessions by persons convicted of crimes, and similar valid federal and state laws, regulations and court orders. Any such "Unlawful Act" is invalid in Upper Bern Township and shall not be recognized by the Township, and shall be considered null, void and of no effect, and this includes, but shall not be limited to, the following:

1. Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens;

2. Any act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizens of the legal age of eighteen and over, other than pursuant to federal law background check requirements for transfers or purchases through FFL dealers or in accordance with Protection From Abuse Orders, criminal statutes prohibiting possession by persons convicted of crimes, and similar valid federal and state laws, regulations and court orders;

3. Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens except in accordance with Protection From Abuse Orders, criminal statutes prohibiting possession by persons convicted of crimes, and similar valid federal and state laws, regulations and court orders;

4. Any prohibition, regulation, and/or use restriction related to ownership inconsistent with the constitutionally-guaranteed lawful use or carry of non-fully automatic firearms.

B. Anyone within the jurisdiction of Upper Bern Township, Berks County, Pennsylvania, accused to be in violation of this Ordinance may be sued in the Court of Common Pleas of Berks County, Pennsylvania, for declaratory and injunctive relief, damages, and attorneys' fees.



C. Any Upper Bern Township code official may enforce this Ordinance.

D. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars and costs and, in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. All prosecutions shall be brought before the Magisterial District Judge having jurisdiction over summary violations that occur in Upper Bern Township.

E. Exceptions:

1. The protections provided to citizens by this Ordinance do not apply to persons who are prohibited from possessing firearms under federal law; or permanently prohibited from possessing firearms under the laws of the Commonwealth of Pennsylvania pursuant to conviction in a criminal court.

2. This Ordinance is not intended to prohibit or affect in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggravating factor or enhancement to an otherwise independent crime.

3. This Ordinance does not permit or otherwise allow the possession of firearms in locations where possession of firearms is prohibited under federal law or the laws of this Commonwealth.

4. This Ordinance does not prohibit enforcement of Protection From Abuse Orders, criminal statutes prohibiting possession by persons convicted of crimes, and similar valid federal and state laws, regulations and court orders.

5. This Ordinance does not prohibit individuals from voluntarily participating or assisting in permitting, licensing, registration or other processing of applications for a License to Carry Firearms, a PICS check, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law.

**Section 5:** Repealer. All Ordinances and Resolutions or parts of Resolutions, insofar as their inconsistency herewith, shall be and are hereby repealed.

**Section 6:** Validity. If any section or part of a section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or sections of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been enacted as if such invalid section or portion thereof had not been included therein.

**Section 7:** Effective Date. This Ordinance shall take effect immediately.

**DULY ADOPTED** by the Board of Supervisors of the Upper Bern Township, Berks County, Pennsylvania, in lawful session duly assembled, the 7<sup>th</sup> day of May 2020, by a vote of 3 to 0.



UPPER BERN TOWNSHIP BOARD OF  
SUPERVISORS

By: Nancy A. Hartman  
Nancy Hartman, Chairman

By: Gloria Grim  
Gloria Grim, Vice Chairman

By: Mike Fisher  
Mike Fisher, Supervisor

ATTEST:

Dee Shewalter  
Secretary  
Attest: