# UPPER SOUTHAMPTON TOWNSHIP ORDINANCE #

AN ORDINANCE OF THE TOWNSHIP OF UPPER SOUTHAMPTON, COUNTY OF BUCKS, COMMONWEALTH OF PENNSYLVANIA, REVISING THE UPPER SOUTHAMPTON TOWNSHIP WARRANTLESS ARREST ORDINANCE BY REVISING THE PROVISIONS RELATING TO PROCEDURES REQUIRED BY THE PENNSYLVANIA RULES OF CRIMINAL PROCEDURE

BE IT ORDAINED, AND IT IS HEREBY ORDAINED THAT in order to comply with Pennsylvania Rule of Criminal Procedure 441, as amended, the Board of Supervisors of the Township of Upper Southampton does hereby enact an amendment to its “Warrantless Arrest Ordinance” as follows:

# SECTION 1.

Chapter 48 (titled “Upper Southampton Township Warrantless Arrest Ordinance”) of the Code of Ordinances of Upper Southampton Township is hereby amended in its entirety by deleting the existing §§ 48-1 through § 48-3, and replacing the same as follows:

## § 48-1 Title.

This chapter shall be known as the "Upper Southampton Township Warrantless Arrest Ordinance."

## [§ 48-2 Warrantless arrest powers.](https://ecode360.com/12733091?highlight=arrest&searchId=171212511868222&12733092)

In addition to the powers provided by 53 P.S. § 66905, relating to powers of police officers, and by 42 Pa.C.S.A. § 6324, relating to taking a juvenile into custody, police officers of Upper Southampton Township shall, upon view and upon probable cause, have the right of arrest without warrant when there is ongoing conduct that imperils the personal security of any person or endangers public or private property for the following offenses, consistent with Section 8902 of the Pennsylvania Judicial Code (42 Pa.C.S.A. § 8902):

1. 18 Pa.C.S.A. § 5503, Disorderly Conduct.
2. 18 Pa.C.S.A. § 5505, Public Drunkenness.
3. 18 Pa.C.S.A. § 5507, Obstructing Highways.
4. 18 Pa.C.S.A. § 6308, Underage Drinking.

## [§ 48-3 Procedure.](https://ecode360.com/12733091?highlight=arrest&searchId=171212511868222&12733097)

Any officer making an arrest under these guidelines shall follow those procedures set forth in the

Pennsylvania Rules of Criminal Procedure, in particular Rule 441, said rule currently providing as follows:

1. When a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to Subsection B or taken before the proper issuing authority under Subsection C.
2. Release of defendant.
	1. When a defendant has been arrested without a warrant, the arresting officer shall promptly release the defendant from custody when the following conditions have been met:
		1. The defendant poses no threat of immediate physical harm to any other person or to himself or herself; and
		2. The arresting officer has reasonable grounds to believe that the defendant will appear as required.
	2. A citation shall be issued to the defendant at the time of release and thereafter the case shall proceed in accordance with Rules of Criminal Procedure 405-409 as if the proceedings had been instituted by issuing a citation to the defendant.
3. When the defendant has not been released from custody under Subsection B:
	1. The defendant shall be taken without unnecessary delay before the issuing authority, when available, pursuant to Rule of Criminal Procedure 117, where a citation shall be filed against the defendant, and:
		1. The defendant shall enter a plea.
		2. If the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the defendant shall be given an immediate trial unless:
			1. The Commonwealth is not ready to proceed, or the defendant requests a postponement or is not capable of proceeding, and in any of these circumstances, the issuing authority shall release the defendant on recognizance unless the issuing authority has reasonable grounds to believe that the defendant will not appear, in which case the issuing authority may fix the amount of collateral to be deposited to ensure the defendant's appearance on the new date and hour fixed for trial; or
			2. The defendant's criminal record must be ascertained before trial as specifically required by statute for purposes of grading the offense charged, in which event the issuing authority shall release the defendant on recognizance unless the issuing authority has reasonable grounds to believe that the defendant will not

appear, in which case the issuing authority may fix the amount of collateral to be deposited to ensure the defendant's appearance on the new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information.

* + 1. In determining whether it is necessary to set collateral and what amount of collateral should be set, the issuing authority shall consider the factors listed in Rule of Criminal Procedure 523. The amount of collateral shall not exceed the full amount of the fine and costs.
		2. If collateral has been set, the issuing authority shall state, in writing, the reason(s) why any collateral other than release on recognizance has been set and the facts that support a determination that the defendant has the ability to pay monetary collateral.
		3. If collateral is set and the defendant does not post collateral, the defendant shall not be detained without a trial longer than 72 hours or the close of the next business day if the 72 hours expire on a nonbusiness day.
	1. If the defendant is under 18 years of age and cannot be given an immediate trial, the issuing authority promptly shall notify the defendant and defendant's parents, guardian, or other custodian of the date set for the summary trial, and shall release the defendant on his or her own recognizance.

## [§ 48-4 Amendments to Regulations; Compliance.](https://ecode360.com/35096590?highlight=arrest%2Carrested%2Carresting&searchId=167655404305775&35096614)

The Township recognizes that Rule 441 of the Pennsylvania Rules of Criminal Procedure and 42 Pa.C.S.A. § 8902 may be amended from time to time. It is the intention of the Township that police officers shall follow the terms and conditions of the rule or statute in effect as of the date of arrest, whether or not this section has been formally amended to comply with any such rule or statutory changes.

# SECTION 2.

It is the intent of the Board of Supervisors of the Township of Upper Southampton that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Township of Upper Southampton and the sections of this Ordinance may be renumbered or re- lettered and the word “ordinance” may be changed to “section” or “article” or such other appropriate word or phrase in order to accomplish the intention of the Board of Supervisors.

# SECTION 3.

The provisions of this Ordinance are severable. If any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decisions of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Upper Southampton that this Ordinance would have been

enacted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

# SECTION 4.

This Ordinance shall become effective five (5) days after the adoption by the Board of Supervisors of Upper Southampton Township.

**ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Upper Southampton on this 14th day of September, 2021.

BOARD OF SUPERVISORS

Attest: TOWNSHIP OF UPPER SOUTHAMPTON

 By: Stephen A. Wallin, Secretary/Treasurer Keith E. Froggatt, Sr., Chairperson