

TOWNSHIP OF EPHRATA

Lancaster County, Pennsylvania

ORDINANCE NO. 260

AN ORDINANCE TO PREVENT BRUSH FIRES AND CONTROL OPEN BURNING AND REFUSE STORAGE AND DISPOSAL IN EPHRATA TOWNSHIP, DEFINING CERTAIN TERMS USED HEREIN AND PROVIDING FOR ENFORCEMENT, EXCEPTIONS, AND PENALTIES.

WHEREAS, in the past, the local fire companies have had to respond to a number of brush fires in Ephrata Township; and

WHEREAS, the origin of most of those fires was traced back to the open burning of leaves and refuse; and

WHEREAS, a number of complaints have been received regarding certain refuse storage and disposal practices; and

WHEREAS, the Supervisors of Ephrata Township have determined that open burning and improper refuse storage and disposal may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of Ephrata Township, it is hereby declared to be the policy of the Township to safeguard its citizens from such hazards.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Ephrata, Lancaster County, Pennsylvania, as follows:

Section 1 – Definitions. The following words, terms and phrases, when used in this Ordinance, unless clearly indicated otherwise, shall have the following meanings ascribed to them:

BOARD – Ephrata Township Board of Supervisors.

FURNACE – Any enclosed device specifically designed for the burning of any material for the production of heat.

GARBAGE – All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, whether commercial, residential or industrial.

INCINERATOR – Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material and approved by the Pennsylvania Department of Environmental Resources.

OPEN BURNING – A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator. Open burning shall not include gas grills, charcoal grills or recreational fires.

PERSON – Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency, or other entity recognized by law as the subject of rights and duties.

RECREATIONAL FIRE – A fire contained within a pit, ring or other noncombustible enclosure for the purpose of pleasure, cooking food, religious, ceremonial, or other similar purposes. Recreational fires shall not include charcoal or gas grills.

REFUSE – Garbage, rubbish and trade waste.

RUBBISH – Solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SALVAGE OPERATION – Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

SUITABLE CONTAINER FOR BURNING – A metal container or a masonry structure in good condition and repair not to exceed four feet square in size with all openings covered with a metal screen of three-fourth (3/4) inch mesh or less.

TRADE WASTE – All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including, but not limited to, wood, shingles, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid

waste materials, provided, however that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

Section 2 – Enforcement. Any police officer, Supervisor or any other duly authorized agent of the Board shall have the power and duty to enforce the provisions of this Ordinance. In addition to the penalties provided for in this Ordinance, the enforcement officer or any fireman in charge called to the scene of a fire, may immediately order any fire smothered or extinguished if in his or her opinion it is out of control, constitutes a hazard or when weather conditions are such that it would not allow a safe fire or wind could carry odors over to neighboring properties. His or her failure to issue such an order or take such action does not in any way constitute Township approval that the fire is safe.

Section 3 – Prohibited Activities. After the effective date of this Ordinance, no person shall:

- A. Conduct open burning by igniting or feeding an open fire in any public or private place outside of any building, or
- B. Cause, suffer, allow or permit the maintenance of any fire for the destruction of refuse or in the conduct of a salvage operation or otherwise on any property under his control outside of any building.
- C. Place or dispose of refuse in any street, alley, stream, body of water or any other public or private property within Township limits.
- D. Kindle or maintain, either directly or indirectly, any fire or authorize or permit any fire to be kindled or maintained on any public road, street, alley, sidewalk or land that is owned by the Township or that is considered common open space or parkland within a residential subdivision.
- E. Burn any materials that are recyclable as part of the Township's recycling program or burn any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection agency to be a hazardous substance.
- F. Ignite, maintain or permit any open burning if such burning is in violation of legislation of the Commonwealth of Pennsylvania or the United States of America.

Section 4 – Exceptions. The requirements of Subsections 3.A and 3.B shall not apply where the open burning operations result from:

- A. Any fire set to prevent or abate a fire hazard when set by or under the supervision of a public officer or recognized fire company.

B. Any fire set for the purpose of instructing personnel in firefighting, when conducted by a duly constituted fire company.

C. Any fire set for the prevention or control of disease or pests, when set by or under the supervision of a governmental agency.

D. Any fire set on private property in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation, grubbing in preparation for same, the burning of unwanted material generated by farming on the premise of the farm operation, fires necessary to protect crops from frost, or any fire set by a Township resident for the purpose of clearing property of wood, yard trimmings or tree branches or the clean-up of unwanted material generated or produced on the property on which it is being burned. All open burning listed in this Subsection are subject to the following conditions:

(1) No hazardous or other objectionable condition may be created by such open burning;

(2) Open burning may not occur when weather conditions are such that it would not allow a safe fire or wind could carry odors over to neighboring properties with the exception of fires necessary to protect crops from frost;

(3) No open burning shall occur unless an adult designated as the responsible party to ensure that the fire is under control is present at all times; said responsible adult shall have equipment on hand at the fire adequate to extinguish the fire;

(4) No tires, rubber, or smoke producing substances may be burned except in the case of a fire necessary to protect crops from frost;

(5) All additional safety standards hereinafter adopted by the Township must be met;

(6) The open burning must be thoroughly under control before sunset so that there are no visible flames and that it cannot reignite;

(7) The open burning shall be a minimum of fifty (50) feet from a property line and a minimum of one hundred fifty (150) feet away from any structure, fuel supply of any kind, or woodland unless the burning takes place in a suitable container for burning, in which case the burning shall be at least twenty-five (25) feet from a property line and any structure on the property where the burning is occurring and at least one hundred fifty (150) feet from any structure located on any other property. A fire may be set within fifty (50) feet of a property line with prior approval from the adjoining property owner.

(8) Prior to open burning, the Township's Police Department shall be notified; however, the fire company shall not be expected to be on standby.

(9) No open burning shall occur during a ban on open fires, which has been declared by the Commonwealth of Pennsylvania, Lancaster County or the Ephrata Township Board of Supervisors.

Section 5 – Recreational Fires. Recreational fires are permitted subject to the following regulations:

- A. No hazardous or other objectionable condition will be created by such recreational fire.
- B. Only dry seasoned firewood is permitted to be burned. No other materials are permitted.
- C. Emissions shall not be visible, at any time, at the point such emissions pass outside the property line of the property where the recreational fire is located.
- D. Recreational fires shall be contained within a fire pit, fire ring or other noncombustible enclosure not exceeding four feet in diameter.
- E. Recreational fires shall be 25 feet from any structures and property lines and shall not be permitted in front yards.
- F. Recreational fires may be maintained after dusk providing they are thoroughly extinguished so that they cannot reignite.
- G. Recreational fires may not be ignited or maintained during a ban on open fires declared by the Commonwealth of Pennsylvania, Lancaster County or the Ephrata Township Board of Supervisors;
- H. Any additional safety standards hereinafter adopted by the Township must be met.

Section 6 – Liability. Parties choosing to ignite a fire do so at their own risk and are subject to any other laws, ordinances, statutes or governmental regulations in effect. The Township and its agents, officials and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this chapter, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this chapter. The individual person(s) responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

Section 7 – Penalties. Any person violating any provision of this Ordinance shall, upon the conviction thereof by summary proceedings, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), together with costs of prosecution, for the first violation and not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00), together with costs of prosecution, for the second and subsequent violations. Each day a violation exists shall constitute a separate offense. In default of the payment of any fine, the defendant

shall be sentenced to jail for a period not exceeding thirty (30) days. The Township also has the right to abate any violations at the financial expense of the violator.

Section 8 – Repealer. Ordinances 115 and 129 of the Township are hereby repealed in full and replaced with the provisions set forth herein. Except to the extent inconsistent herewith, each and every other provision of the Ordinances and Resolutions of this Township shall remain in full force and effect as previously enacted or adopted and amended.

Section 9 – Severability. The provision of this Ordinance are severable, and if any section, clause, sentence, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 10 – Effective Date. This Ordinance shall take effect and be in force five (5) days after adoption.

TOWNSHIP OF EPHRATA
Lancaster County, Pennsylvania

Attest: John L. Weber
By: Clark H. Kraft
(Assistant) Secretary (Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]