

UPPER BERN TOWNSHIP
BERKS COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO.: III of 2011

AN ORDINANCE TO PROMOTE THE GENERAL HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF UPPER BERN TOWNSHIP BY PROVIDING CERTAIN RESTRICTIONS ON BURNING WITHIN THE TOWNSHIP RELATING TO LOCATION, TIME OF DAY AND MATERIALS; ESTABLISHING CERTAIN BURNING CONTROLS; PROVIDING BURNING BANS UNDER CERTAIN CIRCUMSTANCES; DEFINING CERTAIN TERMS; PROVIDING FOR ENFORCEMENT AND ESTABLISHING FINES AND PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR CERTAIN REPEALERS AND VALIDITY; AND ESTABLISHING THE EFFECTIVE DATE.

WHEREAS, the purpose of this Ordinance is to promote the general health, safety and welfare of the citizens of Upper Bern Township by establishing certain restrictions on burning within the Township.

NOW, THEREFORE, IT BEING ENACTED AND ORDAINED by the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania (the "Township"), and it is hereby enacted and ordained by Authority of the same, as follows:

Section 1. Title. This Ordinance shall be known as the "Upper Bern Township Burning Ordinance".

Section 2. Definitions. For the purposes of this Ordinance the following terms shall have the meanings respectively ascribed to them in this Section, unless from the particular context it clearly appears that some other meaning is intended:

(a) **Domestic fires** shall mean those fires which are set and maintained for the purpose of disposing of household or commercial waste, refuse, trash, lawn trimmings, and twigs, except as specifically prohibited herein.

(b) **Open fires** shall mean those fires which are set and maintained for the purpose of disposing of large cartons, tree branches, shrub and bush trimmings.

(c) **Field/agricultural fires** shall mean those fires which are set and maintained for the purpose of disposing of standing weeds in open fields or vacant lots, or common agricultural fires which include field line fires primarily utilized for disposal of brush, stumps, and similar ground items.

(d) **Garbage** shall mean all putrescible, animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

(e) **Astronomical sunrise and sunset** shall mean the time that the sun officially rises and sets as calculated by official local weather bureau reports.

(f) **Person** shall mean any individual, individuals, corporation, partnership, or unincorporated association.

(g) **Fire Chief** -shall mean the duly appointed Township Fire Chief, and in his absence, shall be any of the duly appointed assistant Township Fire Chiefs.

Section 3. Restrictions on Burning - Location. No person shall set or maintain any fire upon any of the streets, sidewalks, alleys or public grounds nor on any property owned by other persons, unless by written consent of such person, in the Township of Upper Bern.

Section 4. Restrictions on Burning - Time of Day. No fires shall be set or maintained nor be allowed to burn, on any day, before the astronomical sunrise and after the astronomical sunset unless previous arrangements have been made with the Fire Chief of the township.

Section 5. Restrictions on Burning - Materials. It shall be unlawful to burn plastics or other toxic materials, or to engage in any commercial burning of tires within the Township. It shall be presumed that burning an excess of four (4) tires at any one time shall constitute a commercial burning, prohibited by this section. Excluded from this section would be domestic plastic items, such as plastic milk and/or soda containers burned in conjunction with normal domestic fires.

Section 6. Restrictions on Burning - Controls. Domestic fires shall be set, maintained and confined in closed containers made of metal, brick, stone or metal mesh with openings of not more than one-half (½) square inch, or a combination of said materials, and such containers shall not be closer than fifty (50') feet to any dwelling and closer than fifty (50') feet to any other structure, wooden fence or piled combustible materials. No burning of any kind in this Township shall be conducted within the setback areas applicable to said property under the Upper Bern Township Zoning Ordinance. The use of containers which are in disrepair is prohibited. The distance requirements of this section are mandatory, unless prior written approval for a variance to said distance requirements is received in advance from the Fire Chief.

Section 7. Restrictions on Burning - Field/Agricultural Fires. Field fires and agricultural fires shall not be set or maintained unless proper notification has been made to the Fire Chief of the date, time and place of the proposed fire. All open agricultural fires and field fires shall be subject to constant supervision of the person responsible for such fire.

Section 8. Restrictions on Burning - Bans. All burning and fires within the Township shall be subject to, and limited by, existing weather and physical conditions at the time. The Fire Chief may impose restrictions on fires, or suspend fires within the Township, when conditions exist which would or could cause danger to the public, including, but not limited to, dry physical characteristics. In making such a determination to limit or ban use of fires, the Fire Chief can use determinations by other State agencies or municipal authorities, or can base such determination on actual physical conditions as may exist at the time. Upon imposition of such a ban, the Fire Chief shall immediately notify the Township Board of Supervisors. The ban shall

be effective upon imposition by the Fire Chief unless and until modified by the Fire Chief or the Township Board of Supervisors. Upon implementation of any type of burning ban and enforcement thereof and any subsequent modification or elimination thereof, the Fire Chief shall cause public notice of such ban and modification or elimination to be published in at least one newspaper of general circulation within the Township and posted at the Township Building. The Fire Chief is also encouraged to provide the public notice to radio and television media providing service within the Township as a public service announcement.

Section 9. Enforcement. Any person violating or failing to comply with any of the provisions of this Ordinance, shall be subject to an action before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, and upon conviction, shall be guilty of a summary offense and subject to sentence of a fine not to exceed Three Hundred (\$300.00) Dollars, or imprisonment to the extent allowed by law for the punishment of summary offenses, together with costs of prosecution.

Section 10. Repealer. All Ordinances or Resolutions, or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, shall be and the same are hereby repealed.

Section 11. 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 12. Effective Date. This Ordinance shall become effective five (5) days after enactment thereof.

ORDAINED AND ENACTED this 14th day of September, 2011, by a vote of 3 Yes
 No Abstained Absent.

UPPER BERN TOWNSHIP BOARD OF SUPERVISORS

By: _____

Attest:

Imyia Klu
Secretary

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David J. J.