

ORDINANCE NO. 42

AN ORDINANCE OF UPPER BERN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, RESTRICTING OPEN FIRES AND BURNINGS BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATIONS.

The Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania, hereby ordains:

Section 1. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context.

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

GARBAGE - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR - any device specifically designed for the destruction by burning of refuse, sewage sludge, or any other combustible material.

OPEN FIRE - a fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

PERSON - any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

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.

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, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal.

Section 2. Regulations. Within the municipal limits of Upper Bern Township, no person shall:

1. ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside any building, or
2. cause, suffer, allow, or permit the maintenance of any open fire for the destruction of refuse, or in the conduct of a salvage operation on any property under his control outside of any building.

Section 3. Exceptions. Subject to the following exceptions:

1. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - A. the prevention of a fire hazard which cannot be abated by other means; or
 - B. the protection of public health.
2. Open fires may be set with approval of the authorized fire chief of the Shartlesville Fire Company and/or the Upper Bern Township Board of Supervisors; provided,
 - A. leaves, branches and other non-putrescible vegetable matter only are burned;
 - B. there is no practical available alternative method for disposal of the material to be burned,
 - C. no hazardous or other objectionable condition will be created by such burning.

D. no such burning is allowed on any street or sidewalk within Upper Bern Township, and

E. all such burning takes place between the hours of 9:00 A.M. and 9:00 P.M.

Section 4. Enforcement. The Board of Supervisors of Upper Bern Township shall appoint the fire chief of the Shartlesville Fire Company who shall have the power to enforce the provisions of this ordinance.

Section 5. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.

Section 6. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 7. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Supervisors of Upper Bern Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Enacted and ordained this 6 day of Dec, 1995.

BOARD OF SUPERVISORS
UPPER BERN TOWNSHIP

Erin Steingard

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Attest:

Stephanie Kestner

Secretary