

October 13, 2010

FRANKLIN TOWNSHIP
YORK COUNTY, PENNSYLVANIA
ORDINANCE NO. - 2010- /
An Ordinance Regulating Outdoor Burning
On All Lands Within Franklin Township.

WHEREAS, the Board of Supervisors of Franklin Township has determined that an Ordinance regulating the burning of materials outdoors is essential to protect public and private property, to minimize the potential for uncontrolled and unsupervised fires and to insure orderly burning within the Township; and

WHEREAS, the Board of Supervisors of Franklin Township recognizes an increase in the number of fire calls and emergency situations related to the burning of materials outdoors, particularly in areas of increased residential development; and

WHEREAS, this Ordinance and the objections leading to its enactment are authorized by "The Second Class Township Code", Act of May 1, 1933, P.L. 103, No. 69, enacted and amended November 6, 1996, P.L. 350, No. 60 (53 P.S. Section 65101, et seq.): it is therefore enacted and ordained by the Board of Supervisors of Franklin Township, York Comity, Pennsylvania, as follows:

SECTION 1 SHORT TITLE

This Ordinance shall be known and may be cited as the "Franklin Township Outdoor Burning Ordinance".

SECTION 2 DEFINITIONS

The following words and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates or requires a different or contrary meaning:

Confined BUining - Any fire confined or contained in a receptacle or contained in a receptacle of acceptable construction (metal, masonry or other non-flammable material) fifty-five (55) gallons or smaller, and equipped with a top so constructed as to prevent fly ash from escaping into the atmosphere.

Open Bmning - Any fire not confined or contained in a receptacle of acceptable construction (metal, masonry or other non-flammable material) fifty-five (55) gallons or smaller, arid equipped with a top so as to prevent fly ash from escaping into the atmosphere.

Outdoor Burning - Any fire, whether confined burning or open burning, not occurring inside of a fully enclosed building

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

Personal Use Fire -Any open burning the materials for which are placed in area of no greater then 5 feet in diameter and which is used solely for recreational or ceremonial purposes or the cooking of food.

Smoldering - Smoldering as used herein shall have the same meaning as "burning" and any smoldering shall be deemed a burning.

SECTION 3 FIRES PROHIBITED ON PUBLIC PROPERTY

No person shall set, cause to be set, maintain or permit to be maintained any fire of any kind, including the burning of any prohibited material, upon any of the streets, sidewalks, alleys, or public grounds in Franklin Township, unless specifically authorized by the Board of Supervisors or its appointed agent, or in the case of the municipal parks, in appliances designed for the preparation of food. Any person who is specifically authorized by the Board of Supervisors to cause or permit any open burning on public property shall, prior to the commencement of said open burning, notify the appropriate York County Emergency Center (911). Said notification shall include the requirement that any and all information so requested by County Control be provided.

SECTION 4 PROHIBITED MATERIALS

A. Outdoor burning of any municipal waste material regulated by local, state, or federal solid waste management and recycling control procedures or hazardous waste materials shall not be permitted, including but not limited to:

- a. Garbage or food waste.
- b. Tires, rubber, plastic, fiberglass materials.
- c. Upholstered furniture, mattresses, box springs.
- d. Building materials containing petroleum based products, including but not limited to: shingles, roll roofing, tar paper (felt), foam sheathing, insulation, vinyl siding and floor covering, carpet, plastic pipe, fiber glass materials, plumbing fixtures, packing materials.
- e. Waste oil, paint, thinners, solvents, household cleaning products.
- f. Pesticides and herbicides.
- g. Electrical components and wiring.

h. Animal bodies, carcasses or animal waste.

B. Except for personal use fires, all items of any type burned must be generated solely and exclusively on the property on which the burning takes place.

SECTION 5 OPEN BURNING SETBACKS

A. No open burning, except personal use fires, shall be permitted within fifty (50) feet of any building or any wooded area whether or not owned by any person setting the fire and whether or not occupied.

B. No open burning shall be permitted within fifty (50) feet of a property line except with the consent of the adjacent property owner and occupant.

SECTION 6 HOURS OF BURNING

No person shall conduct any outdoor burning, except for personal use fires, between sunset and sunrise.

SECTION 7 YORK COUNTY EMERGENCY CENTER CONTACT

Any person conducting an open burning, except for personal use fires, shall, prior to the commencement of said open burning, notify the appropriate York County Emergency Center (911). Said notification shall include the requirement that any and all information so requested by County Control be provided. Notification of the York County Emergency Center (911) shall be made when the open burning is completed.

SECTION 8 GENERAL RESTRICTIONS

A. All outdoor burning shall be maintained and kept under the supervision of a competent adult person actually at the scene of the fire at all times.

B. All fires, ashes and coals shall be thoroughly extinguished after the use thereof has been completed. Smoldering is prohibited.

SECTION 9 TEMPORARY RESTRICTIONS

The Board of Supervisors, by resolution, when it is deemed to be in the interest of public health and safety, may impose a temporary, partial or full ban on burning, including, but not limited to the following: open burning, confined burning, campfires, charcoal grills, exterior fireplaces, agricultural purposes and for the purpose of clearing land. This ban also prohibits the use of display fireworks, consumer fireworks, ground and handheld sparking devices within the Township. Such a ban shall be reviewed from time to time and lifted when the condition(s) resulting in the imposing of the ban no longer exist.

SECTION 10 INCORPORATION OF THE PENNSYLVANIA
AIR POLLUTION CONTROL ACT

In addition to the regulations and conditions for fires and burning contained in this Ordinance, the Pennsylvania "Air Pollution Control Act", Act of January 8, 1960, P.L. (1959) 23119 (35 P.S. Section 4001 et seq.), and the provisions and conditions contained therein, as well as all applicable and attendant regulations formulated by the Pennsylvania Department of Environmental Protection are incorporated in this Ordinance as if the same were set forth herein at length.

SECTION 11 ORDINANCE TO BE CRIMINALLY ENFORCED

Any person who shall violate any provision of this Ordinance shall, upon conviction hereof by a summary proceeding action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of no more than one thousand (\$1,000.00) dollars plus all court costs, and imprisonment, all pursuant to the purpose and mandate of The Second Class Township Code. Each day's violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 12 ACTIONS IN EQUITY AUTHORIZED

In the exercise of the powers herein conferred, the Board of Supervisors of Franklin Township may institute proceedings in courts of equity.

SECTION 13 ADMINISTRATION

The duty of administering and enforcing the provisions of this Ordinance and any rules and regulations duly adopted by Resolution of the Board of Supervisors pursuant to the terms of this Ordinance is hereby conferred upon the Police Department having jurisdiction in Franklin Township.

SECTION 14 CONTINUATION

The provisions of this Ordinance, so far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. Provisions of this Ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any Ordinance repealed by this Ordinance.

SECTION 15 EFFECTIVE DATE

This Ordinance shall become effective in accordance with law.

October 13, 2010

SECTION 16 SEVERABILITY

In the event that any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of Franklin Township that such remainder shall be and shall remain in full force and effect.

SECTION 17 RELATIONSHIP TO OTHER ORDINANCES

All other ordinances, parts of ordinances or parts of resolutions inconsistent herewith shall be and the same expressly are repealed.

ENACTED AND ORDAINED this 13 day of October, 2010.

ATTEST:

Nancy Zastrow

FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS

Ronald Lee
Chairman

John L. Howland
Vice-Chairman

Naomi R. Decker
Member

[Signature]
Member

Member