

ORDINANCE NO. 97 W/ORD. 107 AMDT.

**AN ORDINANCE OF UPPER MILFORD TOWNSHIP, LEHIGH COUNTY,
PENNSYLVANIA, REGULATING OPEN BURNING WITHIN ITS
BOUNDARIES; MINIMIZING FIRE HAZARDS AND AIR POLLUTION;
AND ESTABLISHING PENALTIES FOR VIOLATION THEREOF**

WHEREAS, the Board of Supervisors of Upper Milford Township have heretofore enacted Ordinance No. 58, as amended regulating open burning occurring within the Township; and

WHEREAS, the Board of Supervisors of Upper Milford Township have determined that open burning and air pollution may be detrimental to the health, safety and welfare of its citizenry and at times places an unnecessary burden and risk upon the Township's volunteer fire services personnel and are desirous of protecting its citizenry and volunteer personnel from unrestricted open burning and air pollution; and

WHEREAS, after careful review, the Board of Supervisors of Upper Milford Township are desirous of establishing future regulations to protect its citizenry and volunteer personnel from potential dangers and damages as a result of open burning.

NOW, THEREFORE, the Board of Supervisors of Upper Milford Township, Lehigh County, do hereby ordain as follows:

1. This Ordinance shall be known and cited as "The Upper Milford Township Prevention of Open, Unattended Fires, Fire Hazards and Air Pollution Control Ordinance of 2004".
2. The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

APPROVED CONTAINER: A container used for the purpose of open burning consisting of a metal barrel with a 55-gallon capacity or less which meets the specifications attached hereto, made a part hereof and marked as Exhibit "A" or a similar approved container.



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BONFIRE: A large fire built outside a containment structure upon the ground for recreational or ceremonial purposes limited to a size of generally no greater than five (5) feet long, five (5) wide and five (5) feet in height.

BURN CONTAINER COVER: A metal screen with spaces not more than one-quarter square inch apart that covers the entire open area above the approved container and meets the specifications attached hereto as Exhibit "A". The screen shall be maintained in good order so as to prevent larger particles from escaping from the approved container during operation.

BURNING: The act of consuming by fire, including but not limited to, flaming, charring, scorching or blazing. As used in this Ordinance, the term "smoldering" shall have the same meaning as burning, and any smoldering shall be considered burning.

CAMPFIRE: A small wood fire generally built in an iron ring or similar device outside of a structure for cooking or to create warmth generally limited to a size not exceeding a fuel supply of greater than three (3) feet in diameter and two (2) feet in height.

CLEARING AND GRUBBING WASTE: Trees, shrubs and other native vegetation which are cleared from land. The term "clearing and grubbing waste" does not include demolition waste or dirt-laid in roots.

DOMESTIC REFUSE: Waste generated from a dwelling occupied by two families or less. The term "domestic refuse" does not include household hazardous waste, source separated waste from recyclables, appliances, carpets, demolition waste (insulation, shingles, plaster, siding, etc.), furniture, mattresses, box springs, paint, plastics, petroleum products, rubber products, solvents, tires, treated wood, wire or putrescible waste.

HOUSEHOLD HAZARDOUS WASTE: Waste considered hazardous within the meaning of the Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*, except that it is produced in lesser quantities than that regulated under the Solid Waste Management Act, or is generated by persons not considered hazardous waste generators within the meaning of the Solid Waste Management Act.



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OPEN BURNING: A fire, not directed through a flue, which emits air containments directly into the outdoor atmosphere.

PERSON: Any individual, partnership, corporation, association, institution or cooperative enterprise. Under any provision of this Ordinance prescribing a fine, imprisonment and/or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

RECREATIONAL OR CEREMONIAL BURNING: Open burning which occurs for pleasure, religious, ceremonial, cooking, warmth or other similar purposes, including but not limited to, bonfires and campfires.

SOURCE SEPARATED RECYCLABLE MATERIALS: Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

STRUCTURE: Any house, dwelling, garage, shed, shelter, or other building as that term is defined in the Zoning Ordinance of Upper Milford Township.

TOWNSHIP: The Township of Upper Milford Township.

YARD WASTE: Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery other vegetative material.

3. No person shall conduct or perform any open burning, ignite or feed any open fire, or aid and abet, allow, permit, maintain or cause any open burning or open fire within the Township unless and in accordance with the provisions of this Ordinance.

4. Open burning shall be permitted of the following:

A. A fire to prevent or abate a fire hazard when in accordance with Pennsylvania Department of Environmental Protection Regulations, with prior notification to the Township Code Enforcement Officer and the Chief of the Fire Company of the district in which the burn is to be conducted.

B. A fire to instruct personnel in firefighting, when in accordance with the Pennsylvania Department of Environmental Protection Regulations, which



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is under the direct supervision of the Chief of the Fire Company or his or her designee.

C. A fire to prevent and/or control disease or pests when in accordance with Pennsylvania Department of Environmental Protection Regulations, with prior notification to the Township Code Enforcement Officer and the Chief of the Fire Company of the district in which the burn is to be conducted.

D. A fire, other than a campfire, solely to cook or prepare food.

5. Open burning shall be permitted of the following pursuant to the standards included below:

A. Domestic refuse generated from one (1) dwelling, when the fire is on the premises of a structure solely occupied as a dwelling by two (2) families or less and when the refuse results from the normal occupancy of said structure provided:

1. The open burning is conducted in an approved container;
2. The approved container is placed a minimum of twenty-five (25) feet from any property line or structure;
3. The open burning is attended to at all times;
4. The open burning does not take place either before sunrise or after sunset;
5. The open burning is completely extinguished, including smoldering, by sunset;
6. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and



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7. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

B. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of a farm operation pursuant to the standards below:

1. The open burning is attended to at all times;
2. The open burning does not take place either before sunrise or after sunset;
3. The open burning is completely extinguished, including smoldering, by sunset;
4. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
5. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

C. A fire set for the purpose of burning, clearing and grubbing waste provided:

1. The person conducting the open burning must notify Lehigh County Radio Dispatch two (2) hours in advance of the open burning;
2. The open burning is at least fifty (50) feet from any structure or property line;
3. The open burning is attended to at all times;
4. The open burning does not take place either before sunrise or after sunset;

5. The open burning is completely extinguished, including smoldering, by sunset;
6. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
7. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

D. Yard waste generated from the premises of the structure occupied solely as a dwelling by two (2) families or less, where the fire is on the premises of the said structure provided:

1. The yard waste being burned is dry material and occupies a space that is not more than five (5) feet long, by five (5) feet wide, by five (5) feet in height;
2. The person conducting the open burning must notify Lehigh County Radio Dispatch two (2) hours in advance of the open burning;
3. The open burning is at least fifty (50) feet from any structure or property line;
4. The open burning is attended to at all times;
5. The open burning does not take place either before sunrise or after sunset;
6. The open burning is completely extinguished, including smoldering, by sunset;
7. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing



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equipment which shall be readily available at the site of the open burning for immediate utilization; and

8. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

E. A fire set solely for ceremonial or recreational purposes provided the following conditions are met:

BONFIRES:

1. A written application is submitted at least ten (10) days in advance of the proposed bonfire to the Township accompanied by a site plan of the property depicting all structures on the premises and the location of the proposed bonfire;
2. A permit is issued by the Codes Enforcement Officer upon payment of the requisite application fee established by the Board of Supervisors of the Township;
3. The bonfire shall be at least fifty (50) feet from any property line or structure;
4. The bonfire shall not be placed under any overhead wires, trees or similar vegetation, and all brush, leaves, branches or other combustible materials shall be cleared within twenty-five (25) feet of the diameter of the bonfire;
5. The person conducting the bonfire must notify Lehigh County Radio Dispatch two (2) hours in advance of the bonfire;
6. The bonfire is attended to at all times;
7. The bonfire is completely extinguished, including smoldering, before it is left unattended; and

8. Precautions are taken to regulate, control and extinguish the bonfire through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the bonfire for immediate utilization.

CAMPFIRES:

1. The campfire shall be located in a non-combustible fire ring or similar device designed specifically for such purpose, in a barbeque pit, or in-ground in accordance with commonly accepted safe burning practices;
2. The campfire shall be at least twenty-five (25) feet from a property line or structure;
3. Fuel for the campfire shall be clean, dry seasoned wood;
4. The person conducting the open burning (campfire) must notify Lehigh County Radio Dispatch two (2) hours in advance of the campfire;
5. The campfire is attended to at all times;
6. The campfire is completely extinguished, including smoldering, before it is left unattended; and
7. Precautions are taken to regulate, control and extinguish the campfire through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the campfire for immediate utilization.

6. Notwithstanding anything in this Ordinance, no open burning is permitted of any materials generated by a commercial, industrial or other similar non-residential use, including but not limited to, any materials from the salvaging, construction, and/or demolition of any structure.

7. The following additional standards apply to all open burning:

A. All open burning shall be attended to by a person eighteen (18) years of age or older.

B. No open burning shall produce malodorous fumes detectible beyond the property line which adversely affects the reasonable health, safety, use, occupancy and/or welfare of others.

C. There shall be no open burning of any toxic or household hazardous waste, including but not limited to, tires, plastics, petroleum-based products, paint, batteries or furniture.

D. All items burned shall be readily combustible, and the application of any accelerant used to ignite the fire shall be done in accordance with the recommendations of its manufacturer for safe and proper use.

E. The use of gasoline, motor oil or other similar petroleum-based products, as accelerants, for a fire are prohibited.

F. The provisions of the most current edition of the International Fire Code, Section 307 Open Burning, are incorporated herein and must be complied with by any person conducting open burning. To the extent that those provisions conflict with any provisions contained in this Ordinance or other approved regulations, the stricter provision shall apply.

G. No open burning shall be permitted within any street right-of-way, gutter or swale except for open burning pursuant to paragraph 4(A), (B) or (C).

8. If because of weather, atmospheric or other conditions, any open burning would in the judgment of the Board of Supervisors of the Township and/or upon the mutual written consent of the Fire Chiefs of the Township, would constitute a general danger or threat to property or persons in the Township, the Board of Supervisors of the Township and/or the Fire Chiefs upon mutual written consent may prohibit any open burning until such danger, in their opinion, is no longer present. In the event that the open burning is prohibited by the decision of the Fire Chiefs, then the Fire Chiefs shall immediately, in writing, submit a joint letter to the attention of

ORD. 107
AMENDMENT

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the Board of Supervisors of Upper Milford Township declaring the prohibition on open burning including the rationale for that declaration. The Township shall notify the public of the prohibition on open burning through the newspapers, posting at the Township Municipal Building and at the local fire companies, and/or through use of other publications and the Township's website.

A ban on open burning may also be declared by the County of Lehigh, the Commonwealth of Pennsylvania and/or the United States Government. To the extent that such a fire ban emergency is declared by these entities, it shall supersede the provisions of this Ordinance.

9. The Township hereby designates its Codes Enforcement Officer with the power and authority to enforce the provisions of this Ordinance and issue permits. In addition, the Township further authorizes its Codes Enforcement Officer and the respective fire chiefs or their designee located within the Township to direct persons to cease and desist from any unlawful open burning in violation of this Ordinance. Upon such order, immediate corrective action and measures shall be taken to abate the violation and cease the unlawful open burning. Nothing contained in this Ordinance shall prohibit the Codes Enforcement Officer, or the fire chiefs or their designee from taking appropriate corrective action and measures to abate the violation if in their opinion an immediate hazard is present.

10. Any person who violates any of the provisions of this Ordinance, or fails to comply therewith, shall severally, for each and every violation of non-compliance respectively be fined not more than \$1,000.00 and/or imprisoned not more than ninety (90) days. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. Each day a violation of this Ordinance continues shall constitute a separate offense. The Township hereby authorizes the Codes Enforcement Officer to institute appropriate legal proceedings before the District Justice for violations of this Ordinance.

11. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any remaining provisions of this Ordinance.

12. Any Ordinance or part of Ordinance, except as otherwise herein provided, conflicting with the provisions of this Ordinance are including but not

limited to Ordinance 58, as amended, and the same is hereby repealed insofar as the same affects this Ordinance.

13. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ADOPTED this 17 day of June, 2004,
in lawful session duly assembled.

ATTEST:

BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP

Kimberly A. Shaah
Secretary

Susan J. Smith
Susan J. Smith, Chairperson

Daniel J. Mohr
Daniel J. Mohr, Supervisor

Henry H. Kradjel
Henry Kradjel, Supervisor

SECTION 8 AMENDMENT.

ORDAINED AND ADOPTED this 18 day of May, 2006, in lawful
session duly assembled.

ATTEST:

BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP

Kimberly A. Shaah
Secretary

Daniel J. Mohr
Daniel J. Mohr, Chairperson

Stephen Ackerman
Stephen Ackerman, Supervisor

Henry H. Kradjel
Henry H. Kradjel, Supervisor

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MINIMUM REQUIREMENTS FOR YOUR SAFETY AND PROTECTION

BURN IN A SAFE INCINERATOR
(SHOWN BELOW IS A BARREL TYPE INCINERATOR)

① **METAL BARREL**

IN GOOD CONDITION.

② **HEAVY SCREEN MESH**

NOT LESS THAN 14-GAUGE WIRE
WITH HOLES NOT LARGER THAN
1/4 INCH.

③ **HELP COMBUSTION &
CLEAN BURNING**

PUNCH HOLES AND SHOVE STEEL
RODS OR PIPES THROUGH BAR-
REL. THIS WILL HOLD BURNING
MATERIAL UP AND GIVE A
CLEAN FAST BURN.

④ **DRAFT HOLES**

NEAR THE BOTTOM NOT LARGER
THAN ONE INCH IN DIAMETER.

⑤ **GROUND CLEARED**

AND MAINTAINED AT LEAST 5
SQUARE FEET AROUND INCIN-
ERATOR OF ALL MATERIAL THAT
COULD CAUSE YOUR FIRE TO
ESCAPE. MORE CLEARANCE MAY
BE REQUIRED.

⑥ **SCREEN HINGED
& WEIGHTED**

TO PREVENT FROM FALLING
OR BLOWING OFF YOUR INCIN-
ERATOR.

