

TOWNSHIP OF EAST HEMPFIELD

Lancaster County, Pennsylvania

ORDINANCE NO. 2015-09

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF EAST HEMPFIELD BY ADOPTING THE EAST HEMPFIELD TOWNSHIP OPEN BURNING ORDINANCE

Background

The Board of Supervisors of East Hempfield Township has adopted, as part of its Code of Ordinances, Section 130-7, which deals with open burning. The Board of Supervisors desires to adopt a new Chapter 131 which is intended to address open burning within the Township and thereby replace current Code section 130-7.

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

Current Code Section 130-7 is hereby repealed and the following, to be added as Chapter 131 to the Code of the Township of East Hempfield, is hereby adopted:

CHAPTER 131: OPEN BURNING

§ 131.1 TITLE

This chapter shall be known and may be cited as the "East Hempfield Township Open Burning Ordinance."

§ 131.2 DEFINITIONS

The following words, terms, and phrases, when used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

Agricultural: The tilling of the soil, the raising of crops, forestry, horticulture and commercial gardening, including the keeping or raising of livestock and poultry, and including sale of crops and agricultural, dairy and horticultural farm products incidental to the operation of a farm. A residential garden shall not be considered under this definition for purposes of this ordinance.

Bonfire: A fire, more than four (4) feet in diameter and/or more than two (2) feet in height, built in the open air, for warmth, entertainment, or celebration.

Burning: The act of consuming by fire; to flame, char, scorch, or blaze. As used in this chapter, "smoldering" shall have the same meaning as "burning," and any smoldering shall be deemed a burning.

Campfire: A fire, less than four (4) feet in diameter and less than two (2) feet in height, built in the open air, for warmth, entertainment, or celebration.

Composting: The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.

Cooking Food: To prepare food by the use of heat and/or flame.

Open Burning: An outdoor fire, the air contaminants from which are emitted directly into the outdoor atmosphere.

Person: Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the commonwealth or the federal government, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Regulated Municipal Waste: As defined in §210.1: "SOLID WASTE" of the Codified Ordinances of East Hempfield Township.

Recyclable Materials: As defined in §210.14 of the Codified Ordinances of East Hempfield Township.

Structure:

(A) **Fabricated:** A gas grill (propane or natural gas), charcoal grill, chiminea, and/or fire pit commonly available at retail stores, when used in accordance with the manufacturer's instructions.

(B) **Homemade:** A fire ring, fire pit, fireplace, or other similar structure custom made with non-combustible materials such as rocks, stones, blocks, cement, or brick.

Township: The Township of East Hempfield, Lancaster County, PA.

Yard Waste: As defined in §210.14 of the Codified Ordinances of East Hempfield Township. For purposes of this open burning ordinance.

§ 131.3 REGULATIONS

A. **Permitted Open Burning:** After the effective date of this chapter, no person may engage in the open burning of material, with the exception of the following:

- 1) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of a public officer.

- 2) Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- 3) A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- 4) A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of a farm operation within an Agricultural Zoning District.
- 5) A fire set solely for recreational, ceremonial, and/or cooking purposes using a bonfire, defined within this ordinance, when a permit is first obtained from the Township.
- 6) A fire set solely for recreational, ceremonial, and/or cooking purposes using a Fabricated Structure, as defined within this ordinance, when less than four (4) feet in diameter and less than two (2) feet in height.
- 7) A fire set solely for recreational, ceremonial, and/or cooking purposes using a Homemade Structure, as defined within this ordinance, when less than four (4) feet in diameter and less than two (2) feet in height.
- 8) A campfire, as defined in this ordinance.

B. Burn Bans: It shall be unlawful for any person to open burn during a ban on open burning. A ban on open burning shall be determined when prevailing conditions and the interests of public safety mandate a restriction on open burning. Such bans on burning may be imposed by the Commonwealth of Pennsylvania, the County of Lancaster, and/or East Hempfield Township. The Board of Supervisors, or their designee, shall have the authority to impose a municipal ban on open burning after consultation with the Fire Chiefs of those fire companies providing fire protection service to the Township.

C. Further Prohibitions on Burning: In addition to the above, it shall also be unlawful to burn:

- 1) Within 20 feet of any property line, unless such open burning is contained to a Fabricated Structure, as defined within this ordinance.
- 2) Any and all Regulated Municipal Waste and/or Recyclable Materials.
- 3) Any and all Yard Waste and/or leaves.
- 4) On any public street, alley, road or other public lands without explicit permission from the East Hempfield Township Board of Supervisors or their designee.
- 5) Between 12:00 a.m. (midnight) and 6:00 a.m., unless done pursuant to agricultural purposes or when prior approval is granted by the East Hempfield Township Board of Supervisors or their designee.
- 6) Unless supervised by a responsible adult, being an individual 18 years of age or older not impaired from the ability to properly supervise a fire, who shall remain in proximate attendance until such fire is completely extinguished, and who shall have suitable extinguishing materials readily available for use.

§ 131.4. ENFORCEMENT ORDERS.

- A. Enforcing Officers:** The East Hempfield Township Board of Supervisors, police officers, Zoning Officer, Building Code Official, Code Enforcement Officer, Fire Chief of a department with jurisdiction within the Township, or any other duly authorized agent shall have the power and duty to enforce the provisions of this chapter.
- B. Prima facie Violation.** Open burning that occurs in such a manner as to cause a nuisance, in the form of smoke, odor, and/or ashes to two or more residents who are in general agreement as to the times and durations of the nuisance and who reside in separate residences, including apartments and condominiums, located across a property boundary from the property on which the source of the nuisance is generated shall be prima facie evidence of an open burning violation. In such case, the enforcing officer may issue a cease order as specified in section C.2.
- C. Orders:** The Township may issue such orders as are necessary to aid in the enforcement of the provisions of this chapter. These orders shall include, but shall not be limited to:
- 1) Orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this chapter;
 - 2) Orders requiring persons to cease lawful open burning, which in the opinion of the enforcing officer is causing a serious fire safety concern or is a prima facie violation. In such case the persons will not be subject to penalties if extinguished immediately upon request by the enforcing officer.

§ 131.5 FEES

The Township shall, by resolution, set fees for required open burning permits.

§ 131.6 PENALTIES

Any person, firm or corporation who shall violate any provision of this article, upon conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$25 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days.

This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of East Hempfield as provided by law.

DULY ORDAINED AND ENACTED this 5 day of August, 2015, by the Board of Supervisors of the Township of East Hempfield, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF EAST HEMPFIELD
Lancaster County, Pennsylvania

Attest: 
(Assistant) Secretary

By: 
(Vice) Chairman
Board of Supervisors

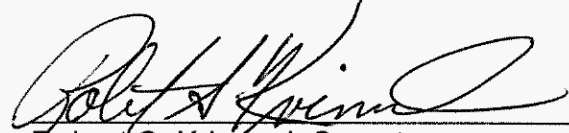
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I, Robert S. Kimmel, Secretary of the Board of Supervisors of East Hempfield Township, Lancaster County, Pennsylvania, hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted at a legally constituted meeting of the Board of Supervisors of East Hempfield Township held on August 5, 2015, at which meeting a quorum was present and voted in favor thereof.



Robert S. Kimmel, Secretary