

UPPER MOUNT BETHEL TOWNSHIP
NORTHAMPTON COUNTY, PA
ORDINANCE 2005-01

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF UPPER MOUNT BETHEL TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA, PROVIDING FOR AND REGULATING THE USE OF OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS, AND DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Township of Upper Mount Bethel, Northampton County, Pennsylvania, is a duly organized and existing Township of the Second Class within the County of Northampton, Commonwealth of Pennsylvania; and,

WHEREAS, the purpose of this ordinance is to promote the general health, safety and welfare of the citizens of Upper Mount Bethel Township pursuant to the Second Class Township Code (53 P.S. Section 66506) and to promote public safety pursuant to the Second Class Township Code (53 P.S. Section 66527); and,

WHEREAS, Upper Mount Bethel Township intends to adopt an ordinance regulating open and outdoor fires and burning within the Township; and,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Board of Supervisors of Upper Mount Bethel Township, Northampton County, PA as follows:

SECTION 1: TITLE – This ordinance shall be known as the Upper Mount Bethel Township Outdoor Burning Ordinance; and all recitals are herein incorporated by reference.

SECTION 2: DEFINITIONS

1. CONTAINED FIRE. Any fire contained in an incinerator, fireplace, barbecue grill or other contained enclosure designed for outdoor cooking or a fireproof container.
2. CONTROLLED FIRE. Any fire not included in the definition of Contained Fire.

3. **FURNACE.** Any enclosed device specifically designed for burning any material for the production of heat.
4. **GARBAGE.** All paper, cardboard, styrofoam, plastic, animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
5. **INCINERATOR/NON COMBUSTIBLE CONTAINER.** Any device specifically designed for the destruction, by burning, of refuse, sewage sludge, or any combustible material.
6. **OFFAL.** The waste or byproducts of a process; the viscera and trimmings of a butchered animal removed in dressing.
7. **OPEN FIRE.** A fire in which any material is burned in the outdoors or open or in a receptacle other than a furnace or incinerator.
8. **PERSON.** Any individual, partnership, association, corporation, department, bureau, agency or legal entity.
9. **REFUSE.** Garbage, rubbish and trade waste.
10. **RESPONSIBLE ADULT.** An individual 18 years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.
11. **RUBBISH.** Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass crockery, masonry, plastics, recyclable items and other similar items.
12. **SALVAGE OPERATIONS.** Any business, trade or industry engaged in whole, or in part, in salvaging or reclaiming any product or material, including, but not limited to, plastics, metals, chemicals, shipping containers or drums.
13. **TRADE WASTE.** All solid or liquid material or rubbish resulting from construction or building operations, or the performance 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 mining or preparation of coal.

SECTION 3: REGULATIONS

1. Open fires shall be permitted, upon private property within the Township, provided that the following regulations and restrictions are strictly adhered to:
 1. Burning is allowed during the following time specifications:
 - a. Monday thru Friday – sunrise to sunset
 - b. Saturday and Sunday – sunrise to 3:00pm
 2. Every contained fire shall be built in and confined to a non-combustible container covered with a screen of ½ inch or smaller mesh, or with other suitable non-combustible cover, and shall not be permitted closer than twenty-five (25) feet from any wooded area or building.
 3. Every controlled fire that is not built in and confined to a non-combustible container as stated above, and every open fire, shall not be permitted closer than fifty (50) feet from any wooded area or building and shall not exceed 12 square feet in area.
 4. No controlled fire that is not built in and confined to a non-combustible container as stated above and no open fire shall be allowed unless the person who intends to do the burning or the owner of the property on which the burning is to occur first obtains permission from Mount Bethel or North Bangor Volunteer Fire Company officials. A current list of officials is available at the Township Municipal Building.
2. All fires shall be attended to at all times by a responsible adult with a readily available means of extinguishing the fire.
3. All fires must be extinguished thoroughly with no embers or smoldering.

4. No burning of any kind is allowed during a Fire Ban Emergency, as proclaimed by Northampton County or the Upper Mount Bethel Township Board of Supervisors. This includes those listed in Section 4 of this Ordinance.
5. The burning of any structures for demolition purposes must be approved by the Mount Bethel or North Bangor Volunteer Fire Company.

SECTION 4: EXCEPTIONS

1. The following are exceptions to Section 3.1. All other sections of this ordinance apply. While the following are exempt from the above section, the Township encourages those in the following subsections a, b, d, e, f, g and h to notify the local Fire Departments prior to burning.
 - a. Fire used for the burning of waste generated by clearing and grubbing prior to construction, as long as smoke odors, ash or sparks and embers do not cross onto other properties.
 - b. Fire set in conjunction with the production of agricultural commodities in their un-manufactured state on the premises of the farm operation.
 - c. Fire set solely for recreational or ceremonial purposes or used only for cooking.
 - d. Fire set to prevent or abate a fire hazard.
 - e. Fire set for the purpose of instructing personnel in fire fighting.
 - f. Fire set for the prevention and control of disease or pests.
 - g. Prescribed controlled fire for the conservation and management of unique and natural areas and/or for the reduction of fuel loads.
 - h. Fire used as a management technique for preventing wildfires, scientific research, or vegetation management.

SECTION 5: PROHIBITED BURNING

1. Burning of construction debris, plastics, aerosol cans, trade wastes, by-products of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.
2. No refuse, rubbish or offal may be burned at any time either indoors or out-of-doors.
3. Burning of plastic, vinyl or rubber-coated wires is prohibited.
4. Fires shall be used only to burn readily combustible materials.
5. Nothing herein shall be construed to permit or encourage the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a "hazardous substance"; nor shall any fire be permitted to burn by any persons if such burning is in violation of the Air Pollution Control Act or other legislation by the Commonwealth of Pennsylvania or the United States of America or any of their legislative agencies.

SECTION 6: FIRE BAN EMERGENCY

The Board of Supervisors may declare a fire ban emergency in Upper Mount Bethel Township with or without consultation with the fire chiefs of the volunteer fire companies operating within the Township during periods of drought, or other periods of high fire risk to woodlands or property within the Township.

The Council of the County of Northampton may declare a fire ban emergency in Northampton County with or without consultation with the fire chiefs of the volunteer fire companies operating within the Township during periods of drought, or other periods of high fire risk to woodlands or property within the Township.

Upon the Board of Supervisors or the Council of Northampton County declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors or the Council of Northampton County.

The Township shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation. In addition, the Township may issue new releases to all communication media, including radio, television and newspapers.

SECTION 7: ENFORCEMENT

The Board of Supervisors shall appoint the Zoning and Codes Enforcement Officer as enforcement officer. Said Officer shall have the power to enforce the provisions of this ordinance.

SECTION 8: PENALTIES

It shall be unlawful to burn, ignite, incinerate, maintain or otherwise permit the burning of any materials whatsoever without complying with the requirements of this Ordinance.

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction in a summary proceeding brought in the name of the Township 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 not more than \$1,000.00, and the costs of prosecution, and in default of payment, to imprisonment for a term not to exceed 90 days, provided that each day's violation of any of the provisions of this Ordinance shall constitute a separate offence.

SECTION 9: ADDITIONAL COSTS

1. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this Ordinance, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for use of the following fire fighting equipment:
 - a. Pumpers and tankers.

- b. **Brush busters.** Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least five hundred (500) gallons capacity and an appropriate size pump.
 - c. **Chain saws.**
 - d. **Any other equipment needed to contain and extinguish the fire.**
 2. **Additional labor charges shall be assessed under this Ordinance based upon an hourly rate for all firemen engaged in the fire fighting activities.**
 3. **The Board of Supervisors shall determine, by resolution, a reasonable schedule of costs based upon mileage, operating costs and fire fighting equipment and man hours. These charges shall be in addition to, and not in lieu of, any penalties provided elsewhere in this Ordinance.**

SECTION 10: REPEALER

All ordinances, or parts of ordinances, which are inconsistent herewith are hereby repealed.

SECTION 11: 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 the Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted has such unconstitutional, illegal or invalid sentence, clause, section or part thereof nit been included herein.

SECTION 12: MUNICIPAL LIABILITY

The Board of Supervisors, and its agents, officers, officials, employees and representative shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance or by reason of the conduct of any burning

activity in compliance or noncompliance with the terms and provisions hereof. The person, persons, company or companies responsible for any such fire and the property owner shall bear sole liability for any damages caused as a result thereof.

Moreover, compliance with the Ordinance shall not constitute a representation, guarantee or consent of any kind by the Township (or any of its agents, officers, officials, employees or representatives) of the practicality or safety of any fire and shall create no liability of any kind upon the Township (or any of its agents, officers, officials, employees or representatives).

THIS ORDINANCE, being duly presented by motion, and duly seconded, was carried and adopted by the Board of Supervisors of Upper Mount Bethel Township at the Township's Regular Monthly meeting held on the 11th day of April 2005.

ATTEST:

BOARD OF SUPERVISORS
UPPER MOUNT BETHEL TOWNSHIP
NORTHAMPTON COUNTY, PA



Loren Rabbat, Secretary
(Impress Township Seal)



Andrew Nestor, Jr., Chairman