

TOWNSHIP OF EARL, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022-1

AN ORDINANCE OF THE TOWNSHIP OF EARL, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF EARL, CHAPTER 6 ENTITLED “FIRE PREVENTION AND FIRE PROTECTION”, PART 3 ENTITLED “BURNING” IN ITS ENTIRETY

WHEREAS, the Township of Earl is a Second Class Township in the Commonwealth of Pennsylvania; and

WHEREAS, the Township of Earl is governed by the Second Class Township Code of the Commonwealth of Pennsylvania; and

WHEREAS, under Section 1506 of the Second Class Township Code, 53 P.S. §66506, the Board of Supervisors may enact ordinances necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens; and

WHEREAS, per Section 1527 of the Second Class Township Code, 53 P.S. §66527, the Board of Supervisors may enact ordinances to secure the safety of persons within the Township; and

WHEREAS, pursuant to Section 1529 of the Second Class Township Code, 53 P.S. §66529, the Board of Supervisors may enact ordinances prohibiting nuisances; and

WHEREAS, pursuant to the authority granted it under the Second Class Township Code, the Board of Supervisors of Earl Township enacted Ordinance Number 1964-1 on June 6, 1964 establishing regulations for burning in the Township; and

WHEREAS, the Board of Supervisors of Earl Township enacted Ordinance Number 1965-3 on August 22, 1965, amending Ordinance Number 1964-1; and

WHEREAS, Ordinance Number 1964-1 and Ordinance Number 1965-3 were codified within the Code of Ordinances of the Township of Earl at Chapter 6 entitled “Fire Prevention and Fire Protection”, Part 3 entitled “Burning”; and

WHEREAS, the Board of Supervisors of Earl Township desires to enact an Ordinance amending Chapter 6 entitled “Fire Prevention and Fire Protection”, Part 3 entitled “Burning” in its entirety.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Earl, Berks County, Pennsylvania as follows:

SECTION 1. The Code of Ordinances of the Township of Earl, Chapter 6 entitled “Fire Prevention and Fire Protection”, Part 3 entitled “Burning”, is hereby amended in its entirety to read as follows:

§301. Purpose.

The purpose of this Ordinance is to prevent public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained within Earl Township and to avoid unnecessary calls and false alarms to the Fire Company.

§302. Title.

This Ordinance shall be known and may be referred to and cited as the "Earl Township Open Fire and Burning Ordinance".

§303. Definitions.

Certain words and phrases used herein shall have the following meanings:

- A. **ADULT** – Any person 18 years of age or older.
- B. **CONTAINED FIRE** – Any fire contained in an incinerator, in a fireplace used for outdoor cooking, or in a fireproof container.
- C. **GARBAGE** - All animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
- D. **FIRE** – Any fire set or maintained outside of a building.
- E. **INCINERATOR** – An apparatus for burning waste material, especially industrial waste, at high temperatures until it is reduced to ash
- F. **LEAF WASTE** - Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.
- G. **PERSON** – Any individual, partnership or corporation.
- H. **REFUSE** – Garbage and rubbish
- I. **RUBBISH** - Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.
- J. **TOWNSHIP** – Earl Township, Berks County, Pennsylvania.
- K. **UNCONTAINED FIRE** – Any fire except a "Contained Fire".

§304. General Restrictions.

Unless otherwise regulated by this Ordinance:

- A. No fire shall be set or maintained within twenty feet (20') of any building, woods or property line within the Township, except for cooking or appliances designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).
- B. No fire shall be set or maintained on any public road or public property, within the Township, except where a designated area has been set aside for this purpose and an appropriate container has been provided to contain such fire.
- C. No fire shall be set or maintained that may endanger any building or property, except where such building or property is used by the Fire Company for training purposes.
- D. No fire shall be set or maintained at any time on a Sunday, a legal holiday or between dusk and dawn on any other day.
- E. No pressurized can or other pressurized container shall be burned.
- F. No rubber, synthetic rubber, plastic, synthetic fabric, of any other material which produces offensive smoke and/or odor when burned shall be burned.
- G. No fire shall be set, ignited, fed, allowed or permitted for the destruction of refuse, rubbish or garbage.
- H. No hazardous materials or hazardous wastes including but not limited to roof shingles, tires, paint or paint cans, aerosol or spray cans, plastic, fiberglass or any other polymers, pressure treated wood or any wood treated with CCA, creosote or OSMOSE, human or animal waste shall be burned within the Township.
- I. No burning that shall be hazardous to human or animal health, otherwise dangerous or objectionable, from which smoke or ash permeates or crosses neighboring properties and/or falls on buildings, vehicles or vegetation shall be allowed in the Township.
- J. All fires shall be supervised by a responsible adult person at all times.
- K. No fire shall be set or allowed to burn when conditions exist to make said fire a hazard.
- L. No items generated from a property other than that which the fire is occurring shall be burned in the Township.
- M. No fire shall be set on any lot less than one (1) acre except for outdoor cooking, smoking, and curing of food for residential purposes and small campfires as provided for herein.

§305. Exceptions.

- A. A fire may be set for burning leaf waste in an approved container or barrel on lots of one (1) acre or more provided they meet the setbacks set forth in Section 304.
- B. A fire may be set for burning leaf waste uncontained on lots of three (3) acres or more provided the Fire Company is notified at least eight (8) hours prior to scheduled burn and the setbacks set forth in Section 306D are met.
- C. Fires within a fire pit, outdoor brick oven, outdoor fireplace or smoker may be set for the express purpose of outdoor cooking, smoking and curing of food for residential purposes only provided the appliance is at least fifteen feet (15') from any structure, vertically or horizontally, and thirty feet (30') from any property boundary and woods line and fires, including but not limited to those within a fire pit, shall not exceed thirty-six inches (36") in height, thirty-six inches (36") in diameter and shall be properly contained. Exception properties of less than one (1) acre that cannot meet the above structure and property line setback requirements may have fires within a freestanding front loading fireplace such as a chimenea provided the fireplace is located at least ten feet (10') from any structure, woods or property line.
- D. Open fires for burning for agricultural purposes may be set for controlled burning on primarily agricultural lots provided the Fire Company is notified at least eight (8) hours prior to scheduled burn and it is setback fifty feet (50') from any structure, property boundary or woods line.
- E. Small campfires provided the fire is at least fifteen feet (15') from any structure, vertically or horizontally, and thirty feet (30') from any property boundary and woods line and fire with flames do not to exceed thirty-six inches (36") in height, thirty-six inches (36") in diameter and properly contained. Exception properties of less than one (1) acre that cannot meet the above structure and property line setback requirements may have small campfires provided the fire is located at least ten feet (10') from any structure, woods or property line and fire does not exceed eighteen inches (18") in height, twenty-four inches (24") in diameter and properly contained.
- F. This Ordinance shall not apply to gas or charcoal fires used for cooking purposes in appliances designed for the purpose of preparing foods.

§306. Uncontained Fires.

- A. The Fire Company may, upon investigation, order that any uncontained fire be immediately extinguished, abated, diminished or corrected if the weather conditions (including but not limited to wind, drought, dry or other conditions) or air are such that continuation of the fire poses a risk of harm to persons or property.
- B. In the event it is necessary to have an uncontained fire at times other than permitted under this Ordinance, special permission must be secured from the Township, and the Fire Company shall be notified of such fires.

- C. No uncontained fire shall be maintained unless constantly attended by at least one (1) adult person.
- D. An uncontained fire shall not be permitted unless it occurs at least fifty feet (50') from the property or woods line.
- E. Any uncontained fire which is permitted to burn in an unsafe manner or which is unsupervised or which is determined to be unsafe by an official of the Fire Company, shall be extinguished immediately upon demand by such official.

§307. Enforcement.

Any officer of the Fire Company and any duly authorized code enforcement officer serving the Township is authorized to enforce the violation and penalties provisions of this Ordinance, including but not limited to issuance of citations or other procedures in accordance with the Pennsylvania Rules of Criminal Procedure for commission of a summary offense.

§308. Violations and Penalties.

- A. A property owner shall be responsible for violation of provisions of this Ordinance by an authorized occupant or invitee of the authorized occupant of the property along with the occupant and/or person igniting the fire.
- B. A person who violates any provisions of this Ordinance shall be guilty of a summary offense and, upon conviction in a summary proceeding in accordance with the Pennsylvania Rules of Criminal Procedure shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) and costs. Each day a violation continues shall constitute a separate offense. If the violation requires the attendance of the Fire Company, the District Justice shall take account of the costs incurred by the Fire Company in responding to the violation in determining the amount of fine to be levied.
- C. The District Justice may award as restitution reasonable costs incurred by the Fire Company in responding to and extinguishing the fire or pursuant to a fee schedule of the Township or the Fire Company.
- D. Any fire set, maintained or permitted to smolder in violation of this Ordinance is hereby declared to be a nuisance and shall be abatable as such by an appropriate legal action.
- E. Any person, partnership, corporation or other entity who or which starts or maintains a fire in the Township shall be fully liable to any person or property owner which sustains personal or property damage to themselves or their property as a result of the negligence of said person, partnership or corporation.

SECTION 2. Repeal of Ordinances and Resolutions.

Any ordinance or resolution or part of ordinances or resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 3. Severability.

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Board of Supervisors of Earl Township, Berks County, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 4. Effective Date.

This Ordinance shall become effective five (5) days after enactment, as provided by law.

SECTION 5. Code of Ordinances.

The Code of Ordinances of Earl Township shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of Earl Township, Chapter 6 entitled "Fire Prevention and Fire Protection", Part 3 entitled "Burning" upon enactment.

DULY ORDAINED and ENACTED as an Ordinance of the Township of Earl, Berks County, Pennsylvania, this 16 day of May, 2022.

BOARD OF SUPERVISORS OF
EARL TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA

Chairman

Member

Member

Attest:

Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2022-1
_____ adopted by the Board of Supervisors of Earl Township, Berks County, Pennsylvania
at a regular meeting held on May 11, 2022, pursuant to notice as required by
law.

Dated: May 11, 2022

Janice Hager
Township Secretary