

ORDINANCE NO. 2007-01

AN ORDINANCE OF BETHEL TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, PROVIDING REGULATIONS RESTRICTING OPEN FIRES AND BURNING WITHIN THE TOWNSHIP, AND ESTABLISHING SPECIFIC REGULATIONS, SPECIFICATIONS AND DEFINITIONS; FURTHER DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATIONS .

The Board of Supervisors of Bethel Township, County of Berks, Commonwealth of Pennsylvania, hereby finds and determines that:

Premises:

1. On March 20, 1995, the Bethel Township Board of Supervisors enacted Ordinance 1995-1 to regulate and restrict outdoor fires.
2. The Bethel Township Board of Supervisors has since determined that Ordinance 1995-1 does not provide sufficiently specific regulations or enforcement provisions to carry out the intended purpose of the Ordinance.
3. The Bethel Township Board of Supervisors enact the within Ordinance for the purpose of preventing needless public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained.

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by reference, the Bethel Township Board of Supervisors, County of Berks, Commonwealth of Pennsylvania therefore enacts and ordains the following:

Section 1: Short Title.

This Ordinance shall be known as the "Bethel Township Outdoor Burning Ordinance."

Section 2: Definitions.

For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

1. Construction/ Demolition waste: Solid waste resulting from construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals asphaltic substances, bricks, block, and unsegregated concrete. The term does not include the following if they are separate from other waste and are used as clean fill:

- (i) uncontaminated soil, rock, stone, gravel, brick and block, concrete and used asphalt.
- (ii) waste from land clearing, grubbing and excavation, including trees, brush, stumps and

vegetative material.

2. Contained Fire - Any fire contained in a fire bowl, chiminea or fireplace used for outdoor heat or cooking, or in an outdoor cooking appliance designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).

3. Enforcement Officer - The Bethel Township Code Enforcement Officer, Bethel Township Police, and/ or Pennsylvania State Police shall be designated Enforcement Officers under this Ordinance.

4. Fire bowl - Any device used for burning untreated wood in a copper or metal bowl no larger than 36" in diameter, which is suspended off the ground by a stand or as part of a table.

5. Garbage - All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

6. Open Fire - Any fire contained in a burn barrel or other similar container, whether or not flames are visible during burning.

7. Person - Any individual, partnership, organization, association, agency, firm, estate, or corporation and any other legal or commercial entity.

8. Recreational Fire: A fire that consists of natural, untreated wood which is confined in some manner intended to prevent the fire from spreading to the surrounding area.

9. Refuse - Garbage and rubbish.

10. Responsible Adult - An individual eighteen (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, diapers, animal waste, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials, or any items or materials defined as "municipal waste" in the Municipal Waste Planning, Recycling & Waste Reduction Act, section 103.

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 metals, chemicals, plastic shipping containers or drums.

13. Trade Waste: All solid or liquid material or rubbish resulting from the prosecution of any business, trade or industry, including but not limited to plastic products, 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 for the use associated with mining or preparation of coal or untreated wood products.

14. Uncontained Fire- A fire in which any material not prohibited to be burned by this ordinance is burned in the open without being confined in any manner.

Section 3: Prohibited Activities

1. It shall be unlawful to burn, ignite, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this Ordinance.

2. It shall be unlawful to burn any of the following materials in any zoning district within Bethel Township:

- a. construction/ demolition waste;
- b. garbage;
- c. refuse;
- d. rubbish;
- e. trade waste;
- f. by-products of salvage operations;
- g. any plastic material, other than plastic grocery, shopping and/or trash bags, including but not limited to, nylon, PVC, polystyrene, urethane foam and synthetic fabrics, plastic films, plastic containers and plastic bottles; and
- h. any other material not specified above which is not permitted to be burned according to the Pennsylvania Air Pollution Control Act, 35 P.S. § 4001 et seq., its implementing regulations, including but not limited to 25 Pa. Code §129.14, and the Solid Waste Management Act and its implementing regulations, including but not limited to 25 Pa.Code §271.1.

3. No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Bethel Township, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

4. No uncontained fire shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the fire department for training purposes.

5. No open fire, recreational fire or uncontained fire shall be permitted to burn during a fire ban emergency as proclaimed by the Berks County Emergency Management, Berks County Commissioners or the Bethel Township Board of Supervisors.

Section 4: Permitted Activities

1. Uncontained fires may be set in the performance of an official duty of any public officer if the fire is necessary for:

- a. the prevention of a fire hazard which cannot be abated by other means;
- b. the protection of public health; and/or
- c. the purpose of fire-fighting training by the Township designated fire fighting organizations, if such training is commenced in accordance with Pennsylvania state law.

2. All zoning districts of Bethel Township may have controlled outdoor burning (open fires, recreational fires and/or uncontained fires) subject to the following regulations:

- a. Open fires and/or uncontained fires are permitted between sunrise and sunset.
- b. No open fire or uncontained fire shall be permitted to burn or smolder anywhere within Bethel Township between sunset and sunrise.
- c. Recreational fires are permitted at any time so long as they comply with all other provisions of this Ordinance.
- d. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within twenty-five feet (25') of any building or structure.
- e. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within five feet (5') of any property line.
- f. All open fires, recreational fires, and uncontained fires must be maintained and supervised by a responsible adult with a readily-available fire extinguishing apparatus within close proximity to the fire.
- g. All open fires shall be confined in a non-combustible container.
- h. All open fires confined in a burn barrel shall be covered with a wire screen of one-half (1/2) inch or smaller mesh.
- i. No recreational fire shall contain a fuel source of more than eight (8) cubic feet.
- j. Prior to the burning of any uncontained fire, the fire department shall be contacted by the resident who will be burning the fire to provide notice of the burn.

3. Contained fires shall be permitted in any zoning district within Bethel Township, subject to the following restrictions:

- a. Outdoor fireplaces, chimineas and fire bowls must be used at a safe distance from all buildings and property lines.
- b. Fire bowls must be covered by a protective screen when in use.
- c. Contained fires must be supervised by a responsible adult.
- d. Contained fires are permitted at any time, so long as they comply with all other provisions of this Ordinance.

Section 5: Fire Department Authority

The Township fire department, or other fire department if the situation necessitates, whether called upon by the Code Enforcement Officer, Bethel Township Police, Pennsylvania State Police, or a citizen of the Township, shall have the authority to enter the property of any person who burns a fire in violation of this ordinance for the purpose of extinguishing the fire.

Section 6: Enforcement Agencies

The Bethel Township Code Enforcement Officer, the Bethel Township Police and/ or the Pennsylvania State Police shall be designated to have all power necessary to enforce the provisions of this Ordinance on behalf of the Township.

Section 7: Criminal Enforcement Penalties

1. This ordinance shall be enforced by an action brought before a district justice in the same manner provided for enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa.R.Crim.P. No. 83 (c) (relating to trial in summary cases). Any person, firm or corporation convicted of violating or permitting a violation of this Ordinance shall pay a fine not exceeding One Thousand Dollars (\$1,000) per violation and may be imprisoned to the extent allowed by law for the punishment of summary offenses. If the violation requires attendance of a 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 the fine to be levied. Each day's violation of this Ordinance shall constitute a separate offense. All fines and penalties collected for the violation of this Ordinance shall be paid to the Bethel Township Treasurer. The Board of Supervisors may delegate the initial determination of Ordinance violation and service of notice of violation to such officers or agents as the Township shall deem qualified for that purpose.

2. 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.

Section 8. Equitable and Other Remedies

No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies through the Court of Common Pleas of Berks County.

Section 9. Liability

Bethel Township and its agents, officials, and representatives, 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 with the terms and provisions of the Ordinance. The individual person or party responsible of any such fire shall bear sole liability for any damages caused as a result thereof.

Section 10. Ratification and Repeals

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. Specifically Township Ordinance No. 1995-1 as adopted on March 20, 1995 is hereby repealed.

Section 11. Severability

The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not effect or impair the remaining provisions or parts thereof of this Ordinance.

Section 12. Effective Date

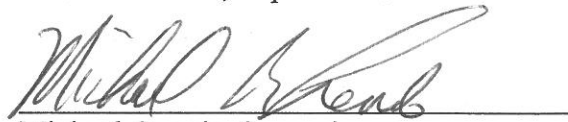
This Ordinance shall become effective five days after its adoption.

ORDAINED and ENACTED as an Ordinance by the Board of Supervisors of
Bethel Township, Berks County, Pennsylvania, in lawful session duly assembled this
21 day of May, 2007.

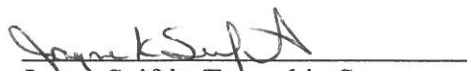
BOARD OF SUPERVISORS OF BETHEL
TOWNSHIP, BERKS COUNTY, PA


Randall Haag, Chairman


Kenneth Norton, Supervisor


Michael Orendo, Supervisor

Attest:


Jayne Seifrit, Township Secretary