

ORDINANCE NO. 95

ORDINANCE OF THE TOWNSHIP OF
HANOVER, WASHINGTON COUNTY,
PENNSYLVANIA, REGULATING AND
RESTRICTING OUTDOOR FIRES

**HANOVER TOWNSHIP OPEN
BURNING ORDINANCE**

ARTICLE I PUBLIC POLICY

It is against public policy to permit uncontrolled, unrestricted outdoor burning. The purpose of this Ordinance is to prevent needless public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and improperly maintained.

ARTICLE II DEFINITIONS

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

A. Air Curtain Destructor - A mechanical device which forcefully projects a curtain of air across a pit in which open burning is being conducted so that combustion efficiency is increased and smoke and other particulate matter are contained.

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

C. **Contained Fire** - Any fire contained in an incinerator, fireplace, cooking grill or other contained enclosure designed for outdoor cooking or a fireproof container.

D. **Grubbing Wastes** - Trees, shrubs, and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition wastes and dirt laden roots.

E. **Domestic Refuse** - Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two (2) families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, treated wood or similar materials.

F. **Open Burning** - A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

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

H. 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.

I. Uncontained Fire - Any fire not included in the definition of a "Contained Fire."

J. Yard Waste - Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material.

ARTICLE III GENERAL LIMITATIONS ON BURNING

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

B. Exceptions - The following types of open burning are permitted so long as such burning is in compliance with the general prohibitions listed below.

1. A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Resources' 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 fire fighting, when approved by the Department of Environmental Resources' 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 Resources' Regional Air Quality Program office.

4. A fire set for the purpose of burning grubbing waste. An air curtain destructor must be used and must be approved by the Department of Environmental Resources' Regional Air Quality Program office.

5. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

6. A fire set for the purpose of burning that amount of domestic refuse generated from one dwelling, when the fire is on the premises of a structure occupied solely as a dwelling by two (2) families or less and when the refuse results from the normal occupancy of said structure.

7. A fire set for the purpose of burning that amount of yard waste generated from the premises of a structure occupied solely as a dwelling by two families or less, when the fire is on the premises of said structure.

8. A fire set solely for cooking food.

9. A fire set for recreational or ceremonial purposes.

C. General Prohibitions - The below listed prohibitions shall apply throughout the Township and to incidents of open burning:

1. Public Roads and Public -Properties - No person shall set, start, feed, permit to burn, or maintain any fire upon any of the

streets and/or rights-of-way, sidewalks, alleys, or public grounds in Hanover Township, except where a designated area has been set aside and reserved for this purpose by the Township and an appropriate container has been provided to contain such fire.

2. Control of Burning and Unattended Fires - No fire shall be allowed to burn unattended without a responsible adult being present at all times and without readily available fire extinguishing apparatus. No fire shall be set that results in uncontrolled burning of vegetation (field fires).

3. Drought/Extreme weather - No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on open burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body. The Board of Supervisors may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.

4. Hours - No person shall burn or cause to be burned any material of any kind outdoors, anywhere in the Township of Hanover between sunset and sunrise; excepting fires set solely for cooking food and those set for recreational or ceremonial purposes. Recreational fires must use natural, untreated wood and contain a fuel source of no more than eight (8) cubic feet.

5. Nothing herein shall be construed to permit or encourage the burning of any substances 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 person if such burning is in violation of the Air Pollution Control Act or other legislation of the Commonwealth

of Pennsylvania or the United States of America or any other competent body. Fires shall be used only to burn readily combustible materials.

6. Total Prohibition - No open burning of any sort shall be permitted between the hours of 1:00 A.M. and 5:00 A.M.

7. No person shall cause, suffer or permit any open burning operation whatsoever if said open burning operation is contrary to Section 729.14, Chapter 129, Title 25, of the Rules and Regulations of the Department of Environmental Resources.

STATE CODE REFERENCE

[Section 729.14 chapter 129.14. Title 25 Open burning operations.]

(a) *Air basins.* No person may permit the open burning of material in an air basin.

(b) *Outside of air basins.* No person may permit the open burning of material in an area outside of air basins in a manner that:

(1) The emissions are visible, at any time, at the point such emissions pass outside the property of the person on whose land the open burning is being conducted.

(2) Malodorous air contaminants from the open burning are detectable outside the property of the person on whose land the open burning is being conducted.

(3) The emissions interfere with the reasonable enjoyment of life or property.

- (4) The emissions cause damage to vegetation or property.
- (5) The emissions are or may be deleterious to human or animal health.

ARTICLE IV. EXTINGUISHING UNSAFE FIRES

Any fire set or allowed to burn in violation of this Ordinance may be extinguished by the Hanover Township Vol. Fire Company or other authorized body when directed to do so by the Hanover Township Police without prior notice to the landowner. In the event that a fire company is required to respond to a fire which violates this Ordinance, a service fee may be levied by the responding fire company.

ARTICLE V. ENFORCEMENT

A. Prevention. Hanover Township may issue such orders as are necessary to aid in the enforcement of the provisions of this Ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this Ordinance; orders to take corrective action or to abate a public nuisance; orders requiring the testing, sampling, or monitoring of any open burn; or others requiring production of information. Such an order may be issued if Hanover Township finds that any condition existing in or on the facility or source involved is causing or contributing to open burning or if Hanover Township finds that any person is in violation of any provision of this Ordinance. Hanover Township may, in its order, require compliance with such conditions as are necessary to prevent or abate open burning or affect

the purposes of this Ordinance. An order issued under this section shall take effect upon notice.

An appeal order shall not act as supersedeas, provided, however, that, upon application and for cause shown, such a supersedeas may issue.

B. Criminal Penalties - Any person who violates any provision of this Ordinance or any order of Hanover Township issued pursuant to this Ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$300.00) for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for thirty (30) days for each separate offense. The Hanover Township Police are hereby declared to be lawful enforcement officers authorized to issue or file citations for summary violations under this Ordinance. For purposes of this section, a summary offense may be prosecuted before any District Justice. There is no accelerated rehabilitative disposition authorized for a summary offense.

C. Equitable and Other Remedies - No penalties herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.

D. Liability - Hanover 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 this Ordinance. The individual person or party responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

ARTICLE VI. 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, claus, sections or parts of this Ordinance. It is hereby declared as the intent of the Hanover Township Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE VII. REPEALER

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

ARTICLE VIII. EFFECTIVE DATE

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

SO RESOLVED, this April 20, 2000.A D

HANOVER TOWNSHIP BOARD OF SUPERVISORS

Sullivan Handcock

Robert Salter

Witness Charlotte Cahler Arthur Caldwell