

FRANKLIN TOWNSHIP
CARBON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-01

AN ORDINANCE OF FRANKLIN TOWNSHIP, CARBON COUNTY, PENNSYLVANIA REGULATING AND RESTRICTING OUTDOOR BURNING; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR REGULATIONS, EXCEPTIONS, RESPONSIBILITY OF OWNERS AND OPERATORS; PROVIDING FOR FIRE BAN EMERGENCIES; DECLARING VIOLATIONS OF THE ORDINANCE A PUBLIC NUISANCE; AND PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF.

SECTION I. Title

This ordinance shall be known and may be cited as the Franklin Township Outdoor Burning Ordinance of 2023.

SECTION II. Authority

The Board of Supervisors of Franklin Township, under, and by virtue of and pursuant to the authority granted by the Air Pollution Control Act, 35 P.S. § 4001 *et seq.* and the Second Class Township Code, including 53 P.S. §§ 66527, 66529, 66534, and 66801, do hereby enact and ordain this ordinance.

SECTION III. Policy

The Board of Supervisors of Franklin Township has determined that open burning creates air pollution that may be detrimental to the health, comfort, living conditions, welfare, and safety of the citizens of Franklin Township, as well as creating hazardous conditions threatening persons or property. Therefore, it is hereby declared to be the policy of Franklin Township to safeguard the citizens of Franklin Township from such air pollution and hazardous conditions.

SECTION IV. Definitions

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

- A. Astronomical Sunrise –The time that the sun officially rises as calculated by official local weather bureau reports.

- B. Board – Board of Supervisors of Franklin Township.

C. 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.

D. Clearing and 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 families or less. The term does not include such items as demolition waste, insulation, shingles, treated wood, paint, painted or stained objects or furniture, tires, mattresses, box springs, metal, insulating coating on wire, television sets and appliances, automobiles, automotive parts, batteries, PVC products, waste oil and other petroleum products.

F. Field Fires – Those fires which are set and maintained for the purpose of disposing of standing weeds in open fields or vacant lots.

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

H. Person – Any individual, public or private corporation for profit or not for profit, limited liability company, 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.

I. Recreational Fire – Means those fires which are set and maintained solely for the purpose of recreation, including campfires and ceremonial fires.

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

SECTION V. Regulations

A. No person may permit open burning with the exception of the following:

1. A fire set to prevent or abate a fire hazard, when approved by the Pennsylvania Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of the Franklin Township Volunteer Fire Company.

2. Any fire set for the purpose of instructing personnel in firefighting, when approved by the Pennsylvania 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 Pennsylvania Department of Environmental Protection's Regional Air Quality Program office.
4. A fire set for the purpose of burning clearing and grubbing waste; provided said fire is attended by an adult at all times and shall not be closer to any building, structure, wooden fence, or piled combustible materials than fifty (50') feet.
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 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 same premises of said structure; provided said fire is attended by an adult at all times and shall not be closer to any building, structure, wooden fence, or piled combustible materials than fifty (50') feet.
8. A fire set solely for cooking food.
9. A recreational fire.
10. Field fires; provided firemen and fire apparatus of a recognized volunteer fire company are in attendance at all times or unless proper arrangements have been made with the Chief of the Franklin Township Volunteer Fire Company to provide for the proper care of such fire.

B. Except for open burning permitted pursuant to subsections V(A)(1), (2), (3), (8), and (9) above, no open burning shall be maintained, nor be allowed to burn, on any day before the astronomical sunrise or after 10:00 p.m. prevailing time.

C. Open burning pursuant to subsections V(A)(6) and (7) shall be set, maintained and confined in closed containers made of metal, brick, stone, or metal mesh with openings of not more than one square inch, or a combination of said materials, and such containers shall not be closer than twenty-five (25') feet to any dwelling and closer than

fifteen (15') feet to any other structure, wooden fence, or piled combustible materials. The use of containers which are in disrepair is prohibited.

D. Before setting a fire pursuant to subsections V(A)(4) or (10), the person setting or maintaining the fire shall contact the Carbon County Communications Center ("CCCC") (using its non-emergency phone number) and notify them when and where the fire will be set and maintained. Further, the person setting or maintaining the fire shall contact the CCCC (using its non-emergency phone number) after the fire has been extinguished.

E. No person shall set or maintain any fire upon any public streets, sidewalks, alleys or grounds nor on any property owned by any other person, unless by written consent of such person.

SECTION VI. Fire Ban Emergency

The Chief of the Franklin Township Volunteer Fire Company may declare a fire ban emergency in Franklin Township during periods of drought or other periods of high fire risk to woodlands, fields, buildings, structures, or other property or persons within Franklin Township. During such periods that a fire ban emergency has been declared, no open burning shall be permitted in Franklin Township.

SECTION VII. Enforcement Officers

In addition to the Franklin Township Police, the Board of Supervisors may appoint by resolution one (1) or more enforcement officers, or a firm or agency, to enforce this ordinance.

SECTION VIII. Penalties

Any person who violates this ordinance shall be subject, upon a summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not more than \$1,000.00, together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such.

SECTION IX. Public Nuisances

A violation of this ordinance shall constitute a public nuisance. The Board shall have the authority to order any person causing a public nuisance to abate the public nuisance or bring an appropriate action at law or equity to abate the public nuisance. In addition, when abating a public nuisance, the Board may recover the expenses of abatement, including attorney fees, court costs, and the like, by any manner permitted by law, including filing a municipal lien against the subject property. Any person who causes the public nuisance shall be liable for the cost of abatement.

SECTION X. Repealer

Ordinance 2006-02 previously enacted is hereby repealed. All other ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

SECTION XI. Validity

The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance. It is hereby declared to be the intent of the Board of Supervisors that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.


SECTION XII. Effective Date

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

ENACTED this 15th day of August, 2023.

**BOARD OF SUPERVISORS
TOWNSHIP OF FRANKLIN**

ATTEST:


Secretary

