

TOWNSHIP OF NORTH UNION
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2-2007

AN ORDINANCE OF THE TOWNSHIP OF NORTH UNION, FAYETTE COUNTY, PENNSYLVANIA, FOR THE PREVENTION AND CONTROL OF AIR POLLUTION; THE REGULATION OF OPEN FIRES AND BURNING; PROVIDES FOR REGULATIONS, LIMITATIONS, EXCEPTIONS, ENFORCEMENT ORDERS, RESPONSIBILITY OF OWNERS; AND PROVIDES PENALTIES FOR UNLAWFUL CONDUCT, CREATING A PUBLIC NUISANCE OR PRIVATE NUISANCE WITH OPEN FIRES.

THIS ORDINANCE, regulating and restricting outdoor fires shall be known and cited as the "North Union Township Burning Ordinance."

SECTION 1 - PUBLIC POLICY

It is against public policy to permit uncontrolled and unrestricted outdoor burning. The purpose of this Ordinance is to improve the general health, welfare and safety of the citizens of North Union Township by preventing needless damage to life and property because of public or private nuisance caused by outdoor fires deliberately or carelessly set and maintained.

SECTION 2 - DEFINITIONS

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

1. Burning Permit: A burning permit to kindle or maintain may be issued by the Board of Supervisors of North Union Township upon cause shown and application therefore under limited special circumstances. A burning permit is valid for one (1) day only and subject to a fee as established by the Board of Supervisors by resolution and under such conditions as the Township Supervisors believe will be appropriate at that time.

2. Contained Fire: Any fire contained in an incinerator, fireplace, or other contained enclosure designed for outdoor cooking, or a fireproof container.

3. Controlled Fire: Any fire not included in the definition of "Contained Fire."

4. Furnace: Any enclosed device specifically designed for burning material designed for the production of heat.

5. Garbage: All decomposed, decayed, or partially decomposed or decayed animal material and/or vegetable material resulting from the handling, preparation, cooking and/or consumption of food.

6. Incinerator/Non-Combustible Container: Any device specifically designed for the destruction by burning of refuse, sewage sludge, or any other combustible material.

7. Open Fire: A fire in which any material is burned in the 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, trade waste, and household garbage.

10. Responsible Adult: An individual 18 years of age 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, industry or occupation engaged, in whole or in part, in salvaging or reclaiming any product or material, included but not limited to, metals, chemicals, shipping containers or drums.

13. Trade Waste: All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution 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.

14. Yard Waste: Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material from lawn maintenance or repair.

SECTION 3 - REGULATIONS

1. Burning is allowed by township residents without a permit as follows:

- (a) On Wednesday of each week between the hours of 4:00 p.m. and 8:00 p.m. Eastern Standard Time.
- (b) On Saturday of each week between the hours of 8:00 a.m. and 4:00 p.m. Eastern Standard Time.
- (c) At such other times as the Board of Township Supervisors may enact by resolution or motion to accommodate the needs of the community while providing for the overall health, safety, and general welfare of the community.

(d) The Board of Township Supervisors may prohibit burning from time to time, depending upon circumstances and conditions, especially during

drought conditions in order to provide for the health, safety, and general welfare of the community.

(e) No burning shall occur less than twenty-five (25) feet from any structure.

(f) All burning shall be continually under the supervision of a responsible adult person.

2. A written burning permit shall be required for all burning to occur at any time other than specified in the within Ordinance. The burning permit is valid for one (1) burn only and the cost of the permit fee shall be set from time to time by resolution of the Board of Township Supervisors.

SECTION 4 - EXCEPTIONS

1. The North Union Township Fire Companies or any other municipal fire company authorized by North Union Township to burn within the township while burning under a controlled situation.

2. Any person whose primary source of income is the end-product of such burning, providing they are in compliance with all other county, state and federal regulations

3. The burning of fuel for the primary purpose of heating a building/residence, or cooking, or the operation of machinery or equipment.

4. 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.

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

6. Fire set solely for recreational or ceremonial purposes, or used only for cooking.

7. Fire set to prevent or abate a fire hazard, when approved by the Pennsylvania Department of Environmental Protection and set by or under the supervision of a public officer.

8. Fire set for the purpose of instructing personnel in fire fighting.

9. Fire set for the prevention and control of disease or pests.

10. Prescribed controlled fire for the conservation and management of unique and natural areas and/or for the reduction of fuel loads.

11. Fire used as a management technique for preventing wildfires, scientific research, or vegetation management.

No burning is allowed during a Fire Ban Emergency as proclaimed by the Board of Supervisors of North Union Township.

SECTION 5 - UNLAWFUL SUBSTANCES

1. Burning of construction debris, aerosol cans, by-products of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.

2. No household garbage, or fecal matter may be burned at any time either indoors or outdoors, or materials used to contain or receive fecal matter may be burned at any time.

3. No tires, plastic materials or substances or materials omitting an obnoxious, offensive or harmful odor may be burned at any time.

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 person if such burning is in violation of the Air Pollution Control Act or other legislation of the Commonwealth of Pennsylvania, County of Fayette or the United States of America.

SECTION 6 - FIRE BAN EMERGENCY

The Board of Supervisors of North Union Township may declare a fire ban emergency in North Union Township during a period of severe drought, or other periods of high fire risk to woodlands or property within North Union Township. The ban shall be announced by motion or resolution at the meeting of the Board of Township Supervisors, and all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors at a regular meeting by motion or resolution.

The Board of Township Supervisors may issue a news release to communication media, including newspapers, television and radio as appropriate.

SECTION 7 - ENFORCEMENT

The Board of Township Supervisors hereby appoints the Code Officer of North Union Township, officers of the Pennsylvania State

Police, and/or local police officers to enforce the provisions of this Ordinance.

SECTION 8 - PENALTIES

It shall be and it is hereby unlawful to burn, ignite, incinerate, maintain or otherwise permit the burning of any materials whatsoever without total compliance to 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 local magisterial district judge or equivalent authority in the same manner provided for the enforcement of summary offenses under 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.C.P. No. 83(c) (relating to trial in summary cases). The magisterial district judge may impose a criminal fine not to exceed One Thousand and 00/100 (\$1,000.00) Dollars per violation and/or may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses. Each day of violation shall constitute a separate offense. The fine or imprisonment for the offense shall be consistent and may vary with the fine or imprisonment imposed by statutory law as enacted in the Commonwealth of Pennsylvania.

SECTION 9 - ADDITIONAL COSTS

In the case of a fire requiring response by fire fighters, fire equipment or fire personnel, and upon conviction of any violation of

this Ordinance, the violator shall also pay reasonable charges in order to cover the fire fighting costs to be established by the fire department for the use of equipment and manpower, which costs shall be reasonable and reflect the current operating costs for utilization of fire fighting equipment and manpower in each particular instance. These charges shall be in addition to and not in lieu of any other penalties provided elsewhere in this Ordinance.

SECTION 10 - REPEALER

All ordinances or parts of ordinances heretofore adopted which are inconsistent with this Ordinance 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 this Ordinance. It is hereby declared as the intent of the Board of Supervisors of North Union Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 12 - MUNICIPAL LIABILITY

The Board of Supervisors of North Union Township, their agents, officials, employees, and representatives, shall not under any circumstance be liable or responsible for damages caused to any person or property by reason of the issuance of any permit or approval under 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 or persons, company or companies or agencies responsible for any such fire and the permit holder shall bear sole liability for any damages caused as a result thereof and shall indemnify the township from any and all liability.

ENACTED AND ORDAINED by the Board of Township Supervisors of North Union Township, Fayette County, Pennsylvania, on the 12th of JUNE, 2007. This Ordinance shall take effect five (5) days after enactment.

NORTH UNION TOWNSHIP SUPERVISORS

BY: Thomas Kumor
Thomas Kumor, Chairman

BY: Robert Tupta
Robert Tupta, Vice-Chairman

ATTEST:

Curtis Matthews
Curtis Matthews, Secretary

(SEAL)

I hereby certify that the foregoing Ordinance was advertised in *The Herald Standard* on 15th day of MAY, 2007, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at a regular meeting of the North Union Township Supervisors held on the 12th day of JUNE, 2007.

Curtis Matthews
Curtis Matthews, Secretary

(SEAL)

TO: North Union Township Supervisors
7 South Evans Station Road
Lemont Furnace, PA 15456

RECEIPT

I, Barry R. Blaine, Librarian, Fayette County Law Library, Courthouse, Uniontown, Fayette County, Pennsylvania, hereby acknowledge receipt of an attested copy of the North Union Township Supervisors Ordinance No. 2 of 2007 (North Union Township Burning Ordinance), which was enacted by the Board of Supervisors of North Union Township, Fayette County, Pennsylvania, on June 12, 2007.

I further acknowledge that said Ordinance was supplied to the Fayette County Law Library by the Board of Supervisors of North Union Township to be filed in the Fayette County Law Library in accordance with the provisions of the Law of the Commonwealth of Pennsylvania, as set forth at 52 P.S. § 65741, which provides that an attested copy of an Ordinance must be filed in the County Law Library in such cases where the full text of the Ordinance is not included in the Public Notice of the Board of Supervisors' intention to adopt the Ordinance.

I further acknowledge that the above recited Ordinance has been filed in the Fayette County Law Library and is available for review and inspection.

DATED this 15th day of June, 2007.

WITNESS:

Diana Pasqua

FAYETTE COUNTY LAW LIBRARY

By: *Barry R. Blaine*
Barry R. Blaine, Librarian