

TOWNSHIP OF PEQUEA
Lancaster County, Pennsylvania

ORDINANCE NO _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF
PEQUEA, LANCASTER COUNTY, PENNSYLVANIA,
TO ADOPT AND REGULATE OPEN FIRES AND OUTDOOR BURNING

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of
Supervisors of the Township of Pequea, Lancaster County, Pennsylvania, as follows:

Section 1. Short Title. This Ordinance shall be known and may be cited as the *“Pequea Township Open Fires and Outdoor Burning Ordinance.”*

Section 2. Legislative Intent. It is against public policy to permit uncontrolled and unrestricted outdoor burning. The purpose of this Ordinance is to protect the health, safety, and welfare of persons from public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained.

Section 3. Definitions. For the purpose of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

CONTAINED FIRE – Any fire contained in an incinerator, fireplace, cooking grill or other fireproof container or noncombustible enclosure designed for outdoor cooking, heating, or leisure purposes.

ENFORCEMENT OFFICER – The person designated by Resolution of the Board of Supervisors of the Township to enforce this Ordinance. The enforcement officer may hold other positions with the Township.

FIRE – any fire set or maintained outside of a building as defined by the Pequea Township Zoning Ordinance.

FIRE PIT – a hole in the ground with approximate dimensions between 3 feet to 9 feet in diameter, and between 1 foot to 4 feet deep, used for controlled burning

PERSON – any individual, partnership, corporation, organization, association, agency, firm, estate and other legally recognized entity, and the members of such partnership or association and the officers of such corporation.

POLICE DEPARTMENT – Any entity whose primary jurisdiction includes all or a portion of the territorial limits of the Township, which may include the Pennsylvania State Police or any municipal or regional police department formed by the Township, participated in by the Township, or with which the Township has a contract for police protective services.

RECREATIONAL FIRE – a fire contained within a pit or other noncombustible enclosure for the purpose of leisure, religious, ceremonial, or other similar purposes.

RESPONSIBLE ADULT – An individual 16 years or older who is not under the influence of drugs, alcohol, or suffering from any other disability which would impair his or her ability to properly supervise a fire.

TOWNSHIP – The Township of Pequea, Lancaster County, Pennsylvania

Comment [T1]: EJH: include fires in a pit (a hole in the ground without a screen or enclosure other than the soil walls created by the depth) as permissible

Section 4. General Limitations.

- A. It shall be unlawful for any person or persons, either directly or indirectly, to set, start, feed, permit to burn, or maintain any fire, or authorize or permit any fire to be set, started, fed, permitted to burn, or maintained on any public road, street, alley, or sidewalk within the Township. Contained fires for cooking and campfires may be maintained upon park or recreation land owned by the Township, on the conditions that the Township has designated an area for this purpose, an appropriate enclosure has been provided to contain such fire, such fire is supervised by a responsible adult, and all other requirements of this Ordinance are met. Nothing in this subsection shall prevent any employee and/or agent of the Township from burning trash upon public ground when such burning is in furtherance of any municipal purpose such as maintaining clean and trash-free public grounds.
- B. No person shall set, start, feed, permit to burn, or maintain any fire within an unsafe distance, no less than twenty (20) feet, from any building, structure, road, street, alley, sidewalk, or property line. Contained fires may be permitted, when safe as determined by the enforcement officer, to be within twenty (20) feet of a building or structure.
- C. No 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 a volunteer fire company serving the Township for training purposes.
- D. No fire shall be set, started, fed, permitted to burn, or maintained where such fire, smoke and/or by-products may interfere with the air quality of the inside of any building, navigation of aircraft, or the safe travel upon any road, street, alley, or sidewalk, by vehicular and pedestrian traffic alike.
- E. No fire shall be set, started, fed, permitted to burn, or maintained between sunset and sunrise, with the exception of contained fires.

Comment [T2]: CEH: include the air quality of the inside of any building

Comment [T3]:
EJH: Delete 4.E in its entirety.
CEH: Keep Section 4.E

Section 5. Control of Burning and Unattended Fires.

- A. No fire shall be permitted to burn without a responsible adult being present at all times and without readily available fire extinguishing apparatus, such as a water hose. Sand or dirt may also be considered with shovels and rakes on hand.
- B. No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania, or other competent governmental body. The Board of Supervisors may prohibit any and/or all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
- C. No fire shall be set that results in the uncontrolled burning of vegetation or property.
- D. All fires shall be confined in a noncombustible container, covered with a wire screen or mesh of no greater than one-half-inch openings, or a perimeter enclosure, with the exception of leaf, brush, cooking fires, ~~or recreational fires~~, or fires in a pit.

Comment [T4]: EJH: include fires in a pit

Section 6. Unlawful Substances. It shall be unlawful to set, start, feed, permit, or maintain any fire containing construction debris, plastics, rubber, manufacturing or commercial by-products or wastes, any hazardous substance as defined by the Commonwealth of Pennsylvania or any other competent governmental body. This section includes any substance that is not readily combustible.

Section 7. Extinguishing Unsafe Fires. It is a violation of this Ordinance for any person to allow any fire to burn under adverse weather conditions or during any time a burning ban declared by the Board of Supervisors, County of Lancaster or Commonwealth agency is in effect or unsupervised or otherwise in an unsafe manner or as

an uncontrolled fire. Any person on a property where a fire is burning under adverse weather conditions, unsupervised, or otherwise in an unsafe manner as an uncontrolled fire, or otherwise in violation of this Ordinance, shall extinguish such outdoor fire immediately upon the request of the enforcement officer, an officer of the police department,, or any member of a volunteer fire company which has been called to the property. Failure to extinguish such outdoor fire upon such a request is a violation of this Ordinance. If no person is on such property or if such person refuses to or cannot otherwise extinguish the fire upon request of the enforcement officer, officer of the police department, or a fire fighter, such enforcement officer, police officer or fire fighter may take any and all appropriate actions to extinguish the fire.

Section 8. Special Circumstances. In the event that it is necessary to have an uncontained fire of a size and/or at a time other than permitted under this Ordinance, the landowner must obtain written permission in advance from the enforcement officer and the Fire Chief (or his designee) of the volunteer fire company providing service to the area in which a property is located.

Section 9. Enforcement. The enforcement officer, as designated by Resolution, and any officer of the police department, shall have the power to enforce any provisions of this Ordinance. The Board of Supervisors specifically authorizes the enforcement officer to issue citations to enforce this Ordinance. The authority of the enforcement officer to issue citations is in addition to the authority of any officer of the police department to issue citations.

Section 10. Violations and Penalties.

- A. Any person who violates any provision of this Ordinance, upon conviction thereof by summary proceedings, shall be sentenced to pay a fine of not less than \$50 nor more than \$1,000, plus costs of prosecution, for the first such conviction, and no less than \$100 nor more than \$1,000, plus costs of prosecution, for the second or subsequent violation.
- B. No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.

Section 11. Liability. The 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 responsible for any such fire shall bear sole liability and responsibility for any damages caused as a result thereof.

Section 12. Severability. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 13. Effective Date. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the *Township of Pequea* as provided by law.

DULY ORDAINED AND ENACTED this _____ day of _____ 2017, by the Board of Supervisors of the Township of Pequea, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF PEQUEA
Lancaster County, Pennsylvania

Attest: _____
(Assistant) Secretary

By: _____
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]

