

NOTTINGHAM TOWNSHIP
Washington County, Pennsylvania

Ordinance No. 79

**AN ORDINANCE OF NOTTINGHAM TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, PROVIDING FOR AND REGULATING THE USE OF OPEN
FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC
REGULATIONS, EXCEPTIONS, AND DEFINITIONS, DESIGNATING AN
ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR
VIOLATIONS.**

AN ORDINANCE REGULATING AND RESTRICTING OUTDOOR FIRES—This ordinance shall be known and cited as the "Nottingham Township Burning Ordinance".

ARTICLE 1: PUBLIC POLICY—It is against public policy to permit uncontrolled and 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 maintained.

ARTICLE 2: DEFINITIONS—Except where otherwise defined in this Ordinance, the definitions set forth in Ordinance No. 56, Nottingham Township Municipal Solid Waste Ordinance, shall apply to this Ordinance and are incorporated by reference. For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed to them herein.

Adverse Weather Conditions—Any weather condition, such as drought conditions, high winds or other extreme weather conditions that are such that burning is deemed to be dangerous by the National Weather Service.

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.

Contained Fire—Any fire contained in an incinerator, fire ring, portable outdoor fireplace, fire pit, fireplace or cooking grill or other contained enclosure or a fireproof container.

Enforcement Officer—The Nottingham Township Zoning Officer and/or any individual as designated by the Board of Supervisors shall be designated Enforcement Officers under this Ordinance.

Fire—Any fire set or maintained outside of a building.

Grubbing Waste—Trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include the demolition waste and dirt laden roots.

Offal Waste—The waste parts, to include, the entrails of butchered animals.

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

Responsible Adult—An individual 18 years or older who does not have any physical or mental disability that would preclude them from properly supervising a fire.

Rubbish—Solids not considered to be highly flammable or explosive including, but not limited to rags, old clothes, leather, rubber, carpets, excelsior, furniture, tin cans, glass, crockery, masonry, plasterboard, tires, appliances, mattresses and other similar materials.

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.

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

ARTICLE 3: GENERAL LIMITATIONS ON BURNING

A. Compliance with Ordinance

1. It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this Ordinance.
2. Nothing herein shall be construed to prevent firefighting training by Township-designated firefighting organizations.

B. Public Roads and Public Properties—No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Nottingham Township, except unless previously authorized by an enforcement officer and where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

C. Safe Distances

1. 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 the fire department for training purposes.
2. Fires shall be permitted only upon private property and shall take place at least twenty (20') feet from any building on a neighboring property or road line.
3. Cooking grills may be less than twenty (20') feet from a building providing that reasonable safeguards are maintained, to include location of the grill on a level surface, proper ventilation and proper connection to a fuel source, if applicable.

D. Control of Burning and Unattended Fires

1. No fire shall be allowed to burn or smolder unattended without a responsible adult being present at all times and without readily-available fire-extinguishing apparatus.

2. No fire shall be permitted to burn whenever adverse weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body.
 3. No fire shall be set that results in the uncontrolled burning of vegetation (field fire).
 4. Contained fires shall be in a non-combustible container, except for fires of leaves, brush, and/or natural, untreated wood which need not be confined to or contained in a non-combustible container.
 5. An air curtain destructor must be utilized for all fires set in relation to land clearing for residential and/or business development purposes, except as permitted by Special Circumstances pursuant to Section G of this Ordinance.
- E. Extinguishing Unsafe Fires—Any unsafe fire may be extinguished by the Enforcement Officer or by the responding fire company or shall be extinguished immediately upon the request of the Enforcement Officer.
- F. Unlawful Substances
1. Burning of trade waste, grubbing waste, rubbish, offal waste, construction debris, plastics, byproducts of manufacturing and processing operations, and wastes from commercial operations is strictly prohibited, except where authorized in Article 3, Paragraph D.
 2. No burning of leaves permitted on any property if leaf pickup by the Township is available to that particular property.
 3. All construction trade waste must be disposed of by means of a refuse dumpster.
 4. All grubbing waste must be disposed of by means of a refuse dumpster or air curtain destructor.
 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 or the United States of America or any other competent body.
 6. No rubbish or offal waste, may be burned at any time either indoors or out-of-doors.
 7. Fires shall be used only to burn readily combustible materials.
- G. Special Circumstances—In the event that it is necessary to have an uncontained fire of a size and/or at times other than permitted under this Ordinance, special permission written must be obtained in advance by application on a form approved by the Board of Supervisors from a designated Enforcement Officer.

ARTICLE 4: ENFORCEMENT

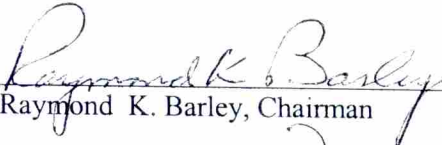
- A. Sanctions—The designated Enforcement Officers may bring, at the option of Nottingham Township, a Civil Enforcement proceeding or Enforcement as a Summary Offense, against any person, whether principal or agent, who violates this ordinance or assists or abets its violation, as follows:
- B. Civil Enforcement Proceeding—The designated Enforcement Officer may initiate by complaint or by such other means as provided by the Pennsylvania Rules of Civil Procedure, a Civil Enforcement proceeding before a Magisterial District Judge and seek Civil penalties for a violation of this Ordinance, which Civil penalties imposed shall be not less than fifty (\$50) dollars nor more than \$600.00 per violation, plus court costs, and reasonable attorneys fees incurred by the Township in the Enforcement proceedings. Pursuant to 53 P.S. §66601(1), the Township shall be exempt from the payment of costs in any Civil case brought to enforce this Ordinance.
- C. Enforcement as Summary Offense—The designated Enforcement Officer may bring an action before a Magisterial District Judge by the filing of a complaint or citation in the manner provided for the Enforcement of Summary Offenses pursuant to the Pennsylvania Rules of Criminal Procedure. The Municipal Solicitor may assume charge of the prosecution without the consent of the District Attorney. Upon conviction of a Summary Offense relating to a violation of this Ordinance, a criminal fine shall be imposed, not to exceed \$1,000.00 per violation and, in default of paying fines and costs, the violator shall be sentenced to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense. The designated Enforcement Officer may maintain a Summary Offense prosecution in addition to a Civil Enforcement proceeding wherein, the same are not mutually exclusive.
- D. Any person, whether as principal or agent, who violates this Ordinance or assists or abets its violation, and who has been found liable in a civil proceeding or upon conviction of a summary offense and who refuses to cease and desist in violating this Ordinance, shall not have a building permit issued to that person and shall have revoked any and all building permits issued by the Township to that person.
- E. Equitable and Other Remedies—No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.
- F. Liability—Nottingham 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 5: SEVERABILITY—The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

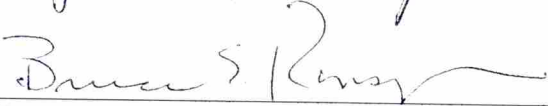
ARTICLE 6: REPEALER—All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance hereby adopted are hereby repealed.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Nottingham Township, Washington County, Pennsylvania, this **17th** day of **October 2005**.

**NOTTINGHAM TOWNSHIP
BOARD OF SUPERVISORS**



Raymond K. Barley, Chairman

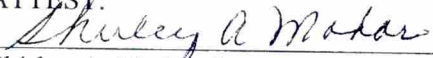


Bruce E. Konsugar, Vice Chairman



Douglas S. King, Member

ATTEST:



Shirley A. Madar, Secretary