

4. EXTINGUISHING UNSAFE FIRES

Any fire set or allowed to burn in violation of this Ordinance may be extinguished by the Rush Township Fire Company or other authorized body, without prior notice to the landowner. In the event that a fire company is required to respond to a fire which violated this Ordinance, a service fee may be levied, upon the owner of the property on which a violation occurred, and/or a lien may be placed upon the property on which the violation occurred.

5. ENFORCEMENT; VIOLATIONS AND PENALTIES

A. Prevention – Rush 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 case 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 Rush Township finds that any condition existing in or on the facility or source involved is causing or contributing to open burning or if Rush Township finds that any person is in violation of any provision of this Ordinance. Rush 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. Any order issued under this section shall take effect upon notice. An appeal of such order shall not act as a supersedes, provided, however, that, upon application and for cause shown, such a supersedes may issue.

B. Criminal Penalties – Any person who violates provision of this Ordinance or any order of Rush 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 (\$1,000.00) for each separate offense, or may be sentenced to imprisonment for thirty (30) days for each separate offense or in default of the payment of such fine. Employees of Rush Township are authorized to conduct inspections or investigations and are hereby declared to be lawful enforcement officers authorized to issue or file citations for summary violations under this Ordinance, and the Rush Township Board of Supervisors is hereby authorized to prosecute these offenses. For purposes of this section, a summary offense may be prosecuted before any District Justice.

C. Civil Penalties – In addition of proceeding under any other remedy available at law or in equity for a violation of a provision of this Ordinance or any other issued pursuant to this Ordinance, Rush Township may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed Eight Thousand Dollars (8,000.00) per day for each violation. In determining the amount of penalty, Rush

Township shall consider the willfulness of the violation, damage to air, soil, water, or other natural resources of Rush Township or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to Rush Township; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved, whether the violation was voluntarily reported; other factors unique to the owners or operators of the source or facility; and other relevant factors . In any case where a civil penalty for violation has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefore in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney's fees incurred by the Township in enforcement proceedings.

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

Liability – Rush 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 the 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 damages caused as a result thereof.

6. Severability

The Sections of this Ordinance are severable; and if any Section or part thereof is found to be unconstitutional or unenforceable, then such determination shall not affect the validity of the remaining Sections or parts thereof.

7. Repealer

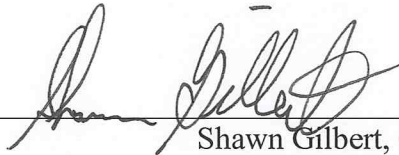
All ordinances of parts of ordinances which are inconsistent are hereby repealed.

8. Effective Date

This ordinance shall take effect five (5) days following enactment.

Enacted and Ordained by the Board of Supervisors of Rush Township, Schuylkill County, Pennsylvania on the 14th day of March 2013.

RUSH TOWNSHIP
BOARD OF SUPERVISORS


Shawn Gilbert, Chairman


Robert Leibersperger, Vice- Chairman


Jeannine Motroni, Supervisor

SIGNED AND ATTESTED:


Darlene Fenstermacher, Secretary/Treasurer