

RUSH TOWNSHIP, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 215

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A TITLE; CITING AUTHORITY; DEFINING CERTAIN WORDS AND TERMS; REGULATING OPEN BURNING; ALLOWING FOR ENFORCEMENT ORDERS; ESTABLISHING ENFORCEMENT OPTIONS; AND CONTAINING REPEALER, SEVERABILITY AND EFFECTIVE DATE PROVISIONS.

WHEREAS, the Rush Township Board of Supervisors desire to prevent and control both air pollution and dangerous burning which could lead to the spreading of out-of-control fires necessitating a response from emergency personnel, both in order to protect the health and welfare of Rush Township's citizens and to secure the safety of persons and property within Rush Township;

NOW, THEREFORE, be it ORDAINED as follows:

Section 1. Title.

This Ordinance shall be known, and may be cited, as the Rush Township Open Burning Ordinance of 2023.

Section 2. Authority.

This Ordinance is enacted pursuant to the power and authority granted the Rush Township Board of Supervisors in 53 P.S. Sections 66506, 66527 and 66601(c.1)(2).

Section 3. Definitions.

The following words and terms, when used in this Ordinance, have the meanings ascribed to them herein. The singular of the following words and terms, when used in this Ordinance, shall also encompass the plural, and the plural the singular; and the masculine shall also encompass the feminine, and the feminine the masculine.

Governmental Official – an official or agency of the United States of America, the Commonwealth of Pennsylvania, or Rush Township. This definition includes an official or officer of a volunteer fire company serving Rush Township.

Open Burning – the burning of material that results in the products of combustion being emitted directly into the atmosphere without passing through a chimney, stack or flue; igniting an outdoor fire; igniting a fire outside an enclosed structure; outdoor smoldering.

Person – any individual or any other legal entity.

Section 4. Regulations.

A. Except as provided in Section 4B of this Ordinance, and if proceeding under an allowance in Section 4B of this Ordinance then subject to the regulations stated in Section 4C of this Ordinance, no Person shall initiate, conduct or allow any Open Burning within Rush Township.

B. The following forms of Open Burning are authorized in Rush Township between the hours of sunrise to sunset, except the forms authorized under sub-parts (1) and (5) which are authorized at any time, and the form authorized under sub-part (6) which is authorized between 7:00 am and 11:00 pm:

- (1). A fire authorized and overseen by a Governmental Official to prevent or abate a fire hazard.
- (2). A fire authorized and overseen by a Governmental Official for the purpose of instructing individuals in fire-fighting techniques.
- (3). A fire authorized and overseen by a Governmental Official for the prevention and/or control of diseases or pests.
- (4). A fire ignited to perform a normal agricultural function, at least 50 feet from any property line, on a parcel devoted substantially to a farming operation.
- (5). A fire ignited for the cooking of food in an outdoor grilling unit designed for cooking purposes.
- (6). A fire set for recreational purposes which: is contained in a surrounded unit or surrounded area designed to prevent the spread of fire; is contained in a unit or area no more than 6 feet in diameter; burns only clean, dry, natural materials; and is set at least 25 feet from any structure, property line and/or combustible material.
- (7). A fire authorized and overseen by a Governmental Official for ceremonial purposes.

C. The following regulations shall limit the forms of Open Burning authorized by Section 4B of this Ordinance.

- (1). No Person shall permit domestic refuse, recyclable materials, leaf waste or vegetative yard waste (such as grass clippings or weeds), plastics, oils, rubber or hazardous materials as defined by State law to burn in any Open Burning, or ignite or maintain any Open Burning by using the same.
- (2). No Person shall engage in or allow any Open Burning on any public roadways, rights-of-way or sidewalks in Rush Township, or on any public property owned by Rush Township.
- (3). No Person shall allow any Open Burning to burn unattended without adult supervision.

(4). No Person shall conduct or allow any Open Burning without a readily available fire extinguishing apparatus nearby.

(5). No Person shall conduct or allow any Open Burning when a ban on burning in Rush Township has been placed in effect by a Governmental Official due to extreme weather or drought conditions.

Section 5. Enforcement Orders.

A. A Governmental Official shall have the power to enforce this Ordinance by issuing an order, either verbally or in writing, to any Person. The following is a non-exhaustive list of examples of orders that may be issued to enforce this Ordinance: an order requiring a Person to cease and desist from Open Burning; an order to take corrective action to prevent a public nuisance; an order to allow for testing or sampling of materials used in Open Burning; and an order requiring production of information.

B. No Person shall fail to comply with any order pursuant to this Section of this Ordinance made by a Governmental Official acting in his/her official capacity.

C. Any person aggrieved by an order pursuant to this Section of this Ordinance of a Governmental Official may appeal said order to the Rush Township Board of Supervisors by delivering a written request seeking relief from the order, therein detailing the nature of the dispute, to the Rush Township Secretary. The matter shall thereafter be placed on the agenda of either a regular or special meeting of the Rush Township Board of Supervisors for the Board to determine whether to overrule or sustain the order.

D. The issuance of an order pursuant to this Section is not a necessary pre-condition to an official of Rush Township seeking enforcement for any violations of this Ordinance pursuant to Section 6 of this Ordinance.

Section 6. Enforcement

A. Enforcement of this Ordinance may be by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c). Any person found to be in violation of any part or provision of this Ordinance, upon conviction, shall pay a fine of no less than \$100 nor more than \$1,000, plus costs, and/or may be sentenced to a term of imprisonment either for a violation of any part or provision of this Ordinance or for failure to pay a fine or costs for a term not to exceed 90 days.

B. Enforcement of this Ordinance may be by action in equity in the Court of Common Pleas of Schuylkill County.

C. Each day on which a violation is found to exist, or each part or provision of this Ordinance which is found to have been violated, shall be a separate offense.

Section 7. Repealer.

Rush Township Ordinance No. 180 is hereby repealed. All other Ordinances or parts thereof which inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent necessary to give effect to the provisions of this Ordinance.

Section 8. Severability.

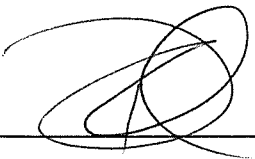
If any part or provision of this Ordinance is found by a court of competent jurisdiction to be illegal or unenforceable, the rest and remainder of this Ordinance shall be given full force and effect as if adopted by the Rush Township Board of Supervisors without the part or provision found illegal or unenforceable.

Section 9. Effective Date.

This Ordinance shall be effective 5 days after adoption.

ADOPTED AND ORDAINED this 21st day of September, 2023.

ATTEST



RUSH TOWNSHIP BOARD OF SUPERVISORS

