

CLAY TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA
ORDINANCE NO. 040824 A

AN ORDINANCE TO CONTROL OPEN BURNING AND REFUSE STORAGE AND DISPOSAL IN CLAY TOWNSHIP, DEFINING CERTAIN TERMS USED HEREIN AND PROVIDING FOR ENFORCEMENT, EXCEPTIONS AND PENALTIES.

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

Section 1 – Definitions

The following words, terms and phrases, when used in this Ordinance, unless clearly indicated otherwise, shall have the following meanings ascribed to them:

FURNACE – Any enclosed devise specifically designed for the burning of any material for the production of heat.

GARBAGE – All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, whether commercial, residential or industrial.

INCINERATOR – Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material and approved by the Pennsylvania Department of Environmental Resources.

OPEN BURNING – A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator. Open burning shall not include charcoal, gas or wood pellet grills or recreational fire.

PERSON – Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency, or other entity recognized by law as the subject of rights and duties.

RECREATIONAL FIRE – A fire contained within a pit, ring or other noncombustible enclosure for the purpose of pleasure, cooking food, religious, ceremonial, or other similar purposes. Recreational fires shall not include charcoal, gas or wood pellet grills.

REFUSE – Garbage, rubbish and trade waste.

RUBBISH – Solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper,

ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SALVAGE OPERATION – Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

SUITABLE CONTAINER FOR BURNING – A metal container or a masonry structure in good condition and repair not to exceed four feet square in size with all openings covered with a metal screen of $\frac{3}{4}$ " mesh or less.

TRADE WASTE – All solid or liquid material or rubbish resulting from construction, building operations, or the processing of any business, trade or industry including, but not limited to, wood, shingles, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials, provided, however that trade waste shall not include any coal refuse associated with the mining or preparations of coal.

Section 2 – Enforcement

Any Police Officer, Board of Supervisors, Township Manager, Zoning Officer or any other duly authorized agent of the Board of Supervisors shall have the power and duty to enforce the provisions of this Ordinance. In addition to the penalties provided for in this Ordinance, the Enforcement Officer or any Officer of the Fire Company called to the scene of a fire, may immediately order any fire smothered or extinguished if in his/her opinion it is out of control, constitutes a hazard or when weather conditions are such that it would not allow a safe fire. His/Her failure to issue such an order or take such action does not in any way constitute Township approval that the fire is safe.

Section 3 – Prohibited Activities

After the effective date of this Ordinance, no person shall:

- A. Conduct open burning by igniting or feeding an open fire in any public or private place outside of any building, or
- B. Cause, suffer, allow or permit the maintenance of any fire for the destruction of refuse or in the conduct of a salvage operation or otherwise on any property under his control out of any building.
- C. Place or dispose of refuse in any street, alley, stream, body of water or any other public or private property within Township limits.
- D. Kindle or maintain, either directly or indirectly, any fire or authorize or permit any fire to be kindled or maintained on any public road, street, alley, sidewalk or land that is owned by the Township or that is considered common open space or park land within a residential subdivision.

- E. Burn any materials that are recyclable as part of the Township's recycling program or burn any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance.
- F. Ignite, maintain or permit any open burning if such burning is in violation of legislation of the Commonwealth of Pennsylvania or the United States of America.

Section 4 – Exceptions

The requirements of Subsections 3.A and 3.B shall not apply where the open burning operations result from:

- A. Any fire set to prevent or abate a fire hazard when set by or under the supervision of a Public Officer or recognized Fire Company.
- B. Any fire set for the purpose of instructing personnel in firefighting, when conducted by a duly constituted Fire Company.
- C. Any fire set for the prevention or control of disease or pests, when set by or under the supervision of a Governmental Agency.
- D. Any fire set on private property in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation, grubbing in preparation for the same, the burning of unwanted material generated by farming on the premise of the farm operation, fires necessary to protect crops from frost, or any fire set by a Township resident for the purpose of clearing property of wood, yard trimmings or tree branches on the property on which it is being burned.

All open burning listed in this Subsection are subject to the following conditions:

1. No hazardous or other objectionable condition may be created by such open burning.
2. Open burning may not occur when weather conditions are such that it would not allow a safe fire or wind could carry odors over to neighboring properties with the exception of fires necessary to protect crops from frost.
3. No open burning shall occur unless an adult designated as the responsible party to ensure that the fire is under control is present at all times; said responsible adult shall have equipment on hand at the fire adequate to extinguish the fire.
4. All additional safety standards hereinafter adopted by Clay Township must be met.
5. The open burning must be thoroughly under control before sunset and no burning before dawn so that there are no visible flames and that it cannot reignite.
6. The open burning shall be a minimum of fifty (50) feet from a property line and a minimum of one hundred fifty (150) feet away from any structure not owned by

- the property owner, fuel supply of any kind, or woodland unless the burning takes place in a suitable container for burning, in which case the burning shall be at least twenty-five (25) feet from a property line and any structure on the property where the burning is occurring and at least one hundred fifty (150) feet from any structure not owned by the property owner. A fire may be set within fifty (50) feet of a property line with prior approval from the adjoining property owner.
7. Prior to open burning, the Township or Designated Representative shall be notified; however, the Fire Company shall not be expected to be on standby.
 8. No open burning shall occur during a ban on open fires, which has been declared by the Commonwealth of Pennsylvania, Lancaster County or by Clay Township Board of Supervisors.

Section 5 - Recreational Fires

Recreational fires are permitted subject to the following regulations:

- A. No hazardous or other objectional condition will be created by such recreational fire.
- B. Only dry seasoned firewood is permitted to be burned. No other materials are permitted.
- C. Recreational fires shall be contained within a fire pit, fire ring or other noncombustible enclosure not exceeding four (4) feet in diameter.
- D. Recreational fire shall be 25 feet from any structures not owned by property owner and property lines and shall not be permitted in front yards.
- E. Recreational fires may be maintained after dusk providing, they are thoroughly extinguished so they cannot reignite.
- F. Recreational fires may not be ignited or maintained during a ban on open fires declared by the Commonwealth of Pennsylvania, Lancaster County or the Clay Township Board of Supervisors.
- G. Any additional safety standards hereinafter adopted by Clay Township must be met.

Section 6 – Liability

Parties choosing to ignite a fire do so at their own risk and are subject to any other laws, ordinances, statutes or governmental regulations in effect. Clay Township and its agents, officials and representative 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(s) responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

Section 7 – Penalties

Any person violating any provision of this Ordinance shall, upon the conviction thereof by summary proceedings, be sentenced for each violation to pay a fine of not more than One Thousand Dollars (\$1,000) and costs of prosecution and, in default of the payment of such fines and costs, to undergo imprisonment for not more than Ninety (90) days. Each violation of any provision of this Ordinance, and each day that such violation shall exist, shall constitute a separate violation and offense.

Section 8 – Injunctive Relief

In addition to any other remedy provided in this Ordinance, the Municipality may institute proceedings to restrain any violation of, or to require compliance with, this Ordinance.

Section 9 – Concurrent Remedies

The existence or exercise of any remedy provided by this Ordinance shall not prevent the Municipality from exercising any other remedy available at law or equity.

Section 10 – Prior Ordinances

Any other Ordinances which pertain to control open burning and refuse storage and disposal in clay township are hereby repealed to the extent of any inconsistency with this Ordinance.

Section 11 – Severability

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Municipality that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FIVE (5) DAYS AFTER ADOPTION

ENACTED AND ORDAINED the 8th day of April, 2024

CLAY TOWNSHIP BOARD OF SUPERVISORS



Handwritten signature of Tim Lausch in black ink, written over a horizontal line.

Tim Lausch, Chairman

Handwritten signature of A Keith Martin in black ink, written over a horizontal line.

A Keith Martin, Vice Chairman

Handwritten signature of Gary Landis in black ink, written over a horizontal line.

Gary Landis, Secretary