

UPPER LEACOCK TOWNSHIP
LANCASTER COUNTY, COMMONWEALTH OF PENNSYLVANIA

Ordinance No. 2023- 02

**AN ORDINANCE OF UPPER LEACOCK TOWNSHIP, LANCASTER
COUNTY, PENNSYLVANIA, REGULATING OPEN BURNING**

WHEREAS, the Upper Leacock Township Board of Supervisors has determined that reasonable regulations and restrictions concerning Open Burning within the Township are necessary to protect the health, safety and welfare of the community; and

WHEREAS, the Supervisors hereby establish regulations regarding outdoor burning, the air contaminants from which are emitted directly into the outdoor atmosphere.

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of Upper Leacock Township, Lancaster County, Pennsylvania, as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the Upper Leacock Township Open Burning Ordinance.

Section 2. Definitions.

Act 97 – The Solid Waste Management Act, Act of July 7, 1980, No. 97, as now or hereafter amended.

Act 101 – The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, as now or hereafter amended.

Agricultural - the tilling of the soil, the raising of crops, forestry, horticulture, and commercial gardening, including the keeping or raising of livestock and poultry, and including sale of crops and Agricultural, dairy and horticultural farm products incidental to the operation of a Farm. The residential garden shall not be considered under this definition for purposes of this chapter.

Bonfire - A fire, more than four (4) feet in diameter and/or more than two (2) feet in height, built in the open air, for warmth, entertainment, or celebration.

Campfire - A fire, less than six (6) feet in diameter and less than two (2) feet in height, built in the open air, for warmth, entertainment, or celebration.

Cooking Food - To prepare food by the use of heat and/or flame.

Designated Recyclable Materials – As defined in Township Ordinance No. 2010-02.

Farm - A tract of land containing ten (10) or more acres which is used for Agricultural purposes, which Agricultural activities provide the major and primary source of income to the residents of the tract.

Open Burning - A fire, the air contaminants from which are emitted directly into the outdoor atmosphere.

Person - Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Plastics - Recyclable plastics are identified on the bottom of the container and consist of two types of containers, namely No. 1 PETE (such as soda bottles) and No. 2 HDPE (such as milk, spring water and detergent bottles).

Structure -

- A. Fabricated - A gas grill (propane or natural gas), charcoal grill, chiminea, and/or fire pit commonly available at retail stores, when used in accordance with the manufacturer's instructions.
- B. Home-made - A fire ring, fire pit, fireplace or other similar structure customarily made with non-combustible material such as rocks, stones, blocks, cement or brick.

Tires - Any pneumatic rubber automobile, truck or farm implement tire.

Township – The Township of Upper Leacock, Lancaster County, Pennsylvania.

Woody Yard Waste - Tree trimmings up to six (6) inches in diameter.

Yard Waste - All garden residues, leaves, shrubbery, tree trimmings up to six inches in diameter, grass clippings and sod.

Section 3. Open Burning Regulations.

It shall be unlawful for any person to cause, suffer, allow or permit or engage in the Open Burning of material except for the following:

(a) The following activities, when conducted in accordance with Subsection (b), are exempt from the Open Burning prohibition set forth above:

(i) Yard Waste (for the enumerated items set forth in sections (A) (B) & (C): crop residue, brush, woody debris, shrubs, trees and other natural vegetation generated as an element of any of the following practices may be burned as long as the burning is set back one hundred fifty (150) feet from the property boundary:

- (A) Agricultural and land conservation maintenance and management practices conducted on a Farm,
- (B) Agricultural, horticultural and forestry management practices to control insects, diseases and other pests conducted on a Farm, or
- (C) Land clearing and grubbing during or prior to the process of construction.

(ii) Woody Yard Wastes that are used for cooking food, recreational or ceremonial purposes, or fire services training.

(iii) Yard Wastes that are approved by Permit for Open Burning by a Fire Marshall, Emergency Services Director, PA Department of Environmental Protection, or PA Department of Conservation and Natural Resources.

(iv) Structures that are used for approved and permitted fire services training activities.

(v) Outdoor fireplaces and charcoal/gas grills shall be permitted upon private property within the Township solely for the purpose of cooking foods. The following regulations shall apply:

- (A) No person shall use such fireplaces or grills for burning of Designated Recyclable Materials.
- (B) Outdoor fireplaces or outdoor grills shall not be used for purposes other than cooking food.
- (C) Outdoor grills shall not be used indoors or in any enclosed areas that are not property ventilated, i.e., garages, etc.

(vi) Outdoor patio stoves, chimineas, or factory-built metal novelty stoves shall be permitted outside on any residential private property within the Township, provided that the following regulations apply:

- (A) No persons shall use such patio stoves, chimineas or factory-built novelty stoves for the burning of any Designated Recyclable Materials.
- (B) Only seasoned wood may be burned within such outdoor patio stoves, chimineas, or factory-built metal novelty stoves.
- (C) Outdoor patio stoves, chimineas, or factory-built metal novelty stoves shall not be used indoors or in any enclosed areas that are not properly ventilated, i.e., garages, etc.

(vii) Campfires contained within a fire pit, or fire ring, not exceeding six (6) feet in diameter shall be permitted outside on any residential private property within the Township, provided that the following regulations apply:

- (A) Only seasoned wood may be burned within such fire pit, or fire ring.
- (B) No persons shall use such Campfire for the burning of any Designated Recyclable Materials.

(viii) Any Bonfire solely for organized recreational or ceremonial purposes, provided that:

- (A) The property owner must submit a request on a form provided by the Township that specifies the date and location of such event.
- (B) The property owner must receive approval of such request from the Township Police Chief prior to the event.
- (C) Only one approval will be granted per location within a 12-month period.
- (D) No person shall use such Bonfire for the burning of any Designated Recyclable Materials.

(b) Outdoor burning permitted in accordance with Subsection (a) shall comply with all of the following regulations.

(i) No person shall cause, suffer or permit the burning of any material in a manner that:

- (A) The emissions are visible, at any time, at the point such emissions pass outside the property line of the person on whose land the burning is being conducted.

- (B) Malodorous air contaminants from the burning are detectable outside the property of the person on whose land the Open Burning is being conducted.
- (C) The emissions cause damage to vegetation or property.
- (D) The emissions are or may be deleterious to human or animal health.

(ii) All Open Burning of Yard Waste conducted in accordance with Subsection (a) as part of Agricultural, land conservation maintenance, horticultural and forestry management practices shall occur between sunrise and sunset on any day.

(iii) Burning must be located at least ten (10) feet from all structures and at least twenty (20) feet from all property lines, road rights-of-way and stream banks. No such burning is permitted in any front yard.

(iv) Any Campfire must be located at least twenty-five (25) feet from all structures and at least twenty-five (25) feet from all property lines, road rights-of-way and stream banks. No Campfire is permitted in any front yard.

(v) Any Bonfire, or Open Burning conducted as part of Agricultural and land conservation maintenance and management practices, or for Agricultural, horticultural and forestry management practices to control insects, diseases and other pests on a Farm anywhere within the Township or a non-farm parcel over ten (10) acres in the Agricultural Zone (A), shall be located at least two hundred and fifty (250) feet from all structures, road rights-of-way and streams and at least one hundred fifty (150) feet from all property lines.

(vi) All burning authorized by Subsection (a) shall be kept under constant supervision by a responsible adult during the burning activity and at the end of the burning activity the fire shall be completely extinguished.

(vii) No person shall cause, suffer, allow or permit Open Burning of any kind when the Board of Supervisors at a public meeting has adopted a resolution declaring a burn ban or when, after a drought watch, drought warning or drought emergency has been declared by the Pennsylvania Department of Environmental Protection or by the Governor, the Chairman of the Board of Supervisors has issued a ban on burning. If the Chairman of the Board of Supervisors issues a ban on Open Burning after declaration of a drought warning or drought emergency, at its next meeting the Board of Supervisors shall determine whether to continue the ban on Open Burning. If the Board of Supervisors does not adopt a resolution to ban Open Burning at such meeting, the ban on Open Burning issued by the Chairman shall be terminated. The Board of Supervisors may terminate a ban on Open Burning by resolution.

It shall be unlawful for any person to cause, allow, permit or engage in the Open Burning of household trash, books, magazines, aluminum, aluminum and steel cans, newspapers,

cardboard and/or any items that are required to be recycled in the Township under Act 101 and Township Ordinance No. 2010-02, Solid Waste, including brush and scrap lumber or any vegetation, plywood, drywall, plastic products, glass, insulation material, upholstered furniture, garbage, dead animals, rubber products including tires, hydrocarbon products or flammable liquids, asphalt or tar shingles or roofing materials, bedding, foam rubber, nylon, rayon, cotton, wool, polyester or other synthetic material, insulation from copper or other wirings, solid waste and construction/demolition material as defined by Act 97 and 25 Pa. Code section 271. No person shall process or dispose of any Construction/Demolition Wastes, Residual Wastes, Hazardous Wastes (as defined by the Pennsylvania Department of Environmental Protection), or Recyclable Materials through Open Burning other than Yard Waste burned in accordance with the provisions of this Ordinance.

Section 4. Enforcement.

The East Lampeter Township Police Department shall be charged with the responsibility to enforce the provisions of this Ordinance and shall perform all other duties in connection with the administration of this Ordinance which may be assigned by the Board of Supervisors.

Section 5. Violations and Penalties.

Any person, firm or corporation who commits, takes part in, or assists in a violation of any provision of this Ordinance, shall be liable upon conviction thereof, in an action brought before the Magisterial District Justice, in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution. Each day, or portion of a day, in which a violation exists shall be considered a separate violation of this Ordinance, and each section of the Ordinance which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable to a term of imprisonment not to exceed thirty (30) days. The Township may also institute proceedings in equity to enforce this Ordinance.

Section 6. Severability.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held 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 Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included therein. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.


Section 7. Adoption.

This Ordinance shall become effective immediately upon its enactment.

ENACTED AND ORDAINED this 20th day of July, 2023.

UPPER LEACOCK TOWNSHIP
BOARD OF SUPERVISORS

ATTEST: 

By 
(Vice) Chairman

