

TOWNSHIP OF EDEN

Lancaster County, Pennsylvania

ORDINANCE NO. 2024-05

**AN ORDINANCE OF THE TOWNSHIP OF EDEN,
LANCASTER COUNTY, PENNSYLVANIA, REGULATING
AND RESTRICTING OPEN FIRES AND OUTDOOR
BURNING.**

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

SECTION 1. LEGISLATIVE INTENT. The Board of Supervisors has determined that air pollution from an open fire and burning may be detrimental to the health, safety, comfort, and living conditions of the residents of the Township of Eden and desires to safeguard its residents by enacting this Ordinance pursuant to the authority granted by the Second Class Township Code and the laws of the Commonwealth of Pennsylvania. This Ordinance is hereby enacted for the prevention and control of air and water pollution; defining certain terms used herein; providing for regulations and restrictions governing burning within the Township. After the effective date of this Ordinance, no person shall kindle, maintain, or authorize to be kindled or maintained any open burning unless conducted according to this Ordinance.

SECTION 2. DEFINITIONS AND INTERPRETATION.

A. Definitions.

AGRICULTURAL BURNING — Open Burning on the premises of a farm operation producing air contaminants and air pollution arising from the production of agricultural commodities in their unmanufactured state, excluding open burning of materials produced or manufactured off the premises of the farm operation other than paper, wood or organic-based materials directly associated with active agricultural practices.

AIR BASIN — A geographic area of the Commonwealth of Pennsylvania designated by DEP pursuant to 25 Pa. Code § 121.1.

AIR CONTAMINANT — Smoke, dust, fumes, gas, odor, mist or vapor, or any combination thereof.

BOARD OF SUPERVISORS — The governing body of the Township.

BURNING — The act of consuming by fire; to flame, char, scorch, or blaze. As used in this chapter, “smoldering” shall have the same meaning as “burning,” and any smoldering shall be deemed a burning.

CAMP FIRE — A fire, less than four (4) feet in diameter and less than two (2) feet in height, built in the open air for warmth, entertainment, or celebration.

CLEARING AND GRUBBING WASTES — Trees, shrubs and other native vegetation which are cleared from land prior to or during the process of construction. The term does not include demolition wastes, construction wastes, industrial wastes or dirt-laden roots.

CODE ENFORCEMENT OFFICER — The person designated by the Board of Supervisors to administer this Ordinance.

CONTAINED FIRE — Any fire contained in an incinerator, fireplace, cooking grill, chiminea, fire pit, fire ring, fire place, burn barrel, or other fireproof container, enclosure, or structure made of non-combustible materials (such as rocks, stones, blocks, cement, or brick) designed for outdoor cooking, heating, or leisure purposes.

DCNR — The Pennsylvania Department of Conservation and Natural Resources.

DEP — The Pennsylvania Department of Environmental Protection.

DOMESTIC REFUSE — Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two (2) families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, or treated wood.

HIGH FIRE DANGER PERIOD — Periods of high winds or very dry outdoor conditions, or times designated as such by any agency, department or political subdivision of the Commonwealth, including, but not limited to, the Township of Eden.

OPENING BURNING – An intentionally ignited fire which emits air contaminants into the outdoor atmosphere.

PERSON — Any individual, natural person, syndicate, association, partnership, firm, corporation, institution, agency, authority, department, bureau or other instrumentality of federal, state, local or regional government or other entity recognized by law as the subject of rights and duties.

PUBLIC OFFICER — Any person in an official capacity such as a police officer, firefighter, or the Code Enforcement Officer.

PUBLIC PARK — Any property owned by the Township and designated as a public park or recreation area.

RESPONSIBLE ADULT — An individual 18 years of age or older, not impaired from the ability to properly supervise a fire, who shall remain in proximate attendance until such fire is completely extinguished.

TOWNSHIP — The Township of Eden, Lancaster County, Pennsylvania, or any individual authorized by the Board of Supervisors to act on behalf of the Township.

YARD WASTE — Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material.

B. Interpretation. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. Words used or defined in one tense or form shall include other tenses or derivate forms.

2. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
3. The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.
4. The words “shall,” “must” and “will” are mandatory in nature and establish an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive.
5. The time within which any act required by this Ordinance is to be performed shall be computed by excluding the first day and including the last day. However, if the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the Pennsylvania General Assembly, it shall also be excluded. The word “day” shall mean a calendar day, unless otherwise indicated.
6. References to officially adopted regulations, standards, or publications of other governmental agencies shall include the regulation, publication, or standard in effect on the date when a permit application is first filed. It is the intent of the Township in enacting this section to incorporate such changes to statutes, regulations, and publications to the extent authorized by 1 Pa. C.S. §1937.

SECTION 3. PERMITTED OPEN BURNING. After the effective date of this Ordinance, no person may engage in the Open Burning of material, with the exception of the following:

- A. When approved by DEP’s Regional Air Quality Program:
 1. A fire set to prevent or abate a fire hazard, and set by or under the supervision of a Public Officer;
 2. Any fire set for the purpose of instructing personnel in firefighting; and
 3. A fire set for the prevention and control of disease or pests.
- B. Agricultural Burning.
- C. A fire set for the purpose of Burning Clearing and Grubbing Waste. If conducted within an Air Basin, an air curtain destructor must be used and must be approved by DEP’s Regional Air Quality Program office.
- D. A Contained Fire set for the purpose of Burning that amount of Domestic Refuse generated from one (1) dwelling, when the fire is on the premises of a structure occupied solely as a dwelling by two (2) families or less and when the refuse results from the normal occupancy of said structure.
- E. A Contained Fire set for the purpose of Burning that amount of Yard Waste generated from the premises of a structure occupied solely as a dwelling by two (2) families or less (except where composting is mandatory), when the fire is on the premises of said structure.
- F. A Contained Fire or Camp Fire set solely for recreational, ceremonial, and/or cooking purposes when less than four (4) feet in diameter and less than two (2) feet in height.

- G. A Contained Fire for cooking within a Public Park, provided such Contained Fire is:
1. Set in an area designated for such purpose;
 2. Contained within a permanently installed cooking grill located within the Public Park;
and
 3. Supervised by a Responsible Adult.

SECTION 4. GENERAL RESTRICTIONS.

- A. All Opening Burning shall be conducted in a safe and reasonable manner and in a location that does not endanger life or property and does not unreasonably interfere with comfortable enjoyment of life or property.
- B. It shall be unlawful to burn:
1. Within twenty (20) feet of any property line, building, or structure, except a Contained Fire for recreational, ceremonial, and/or cooking purposes.
 2. On any public street, alley, or road.
 3. Between 12:00 a.m. (midnight) and 6:00 a.m., except for Contained Fires for recreational, ceremonial, and/or cooking purposes and Camp Fires.
 4. Toxic substances, including, but not limited to, toxic construction materials, toxic household materials, toxic debris, and any other materials as determined by the regulations enacted by the Department of Environmental Protection and Department of Conservation and Natural Resources.
- C. No Burning shall be conducted unless supervised by a Responsible Adult, who shall maintain at the site any and all equipment appropriate and adequate to contain and control the burning being conducted. Such equipment may include a water hose, fire extinguisher, shovels, rakes, sand, or dirt.
- D. The area within a radius of ten (10) feet of a Contained Fire or Camp Fire shall be cleared of any leaves, brush, or other flammable materials.

SECTION 5. ORDER TO EXTINGUISH, ABATE, OR CORRECT. A Public Officer may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected if, in the Officer's sole judgment:

- A. The fire contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- B. The fire is in a prohibited location;
- C. The fire is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
- D. Where the size, materials, containment, location, proximity to structures, trees, other combustible materials, conduct of participants, weather conditions (including, but not

limited to, wind, drought, dry or other conditions) or air quality, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property;

- E. Where the fire creates a nuisance, in the form of smoke, odor, and/or ashes to two (2) or more residents who are in general agreement as to the times and durations of the nuisance and who reside in separate residences, located across a property boundary from the property on which the source of the nuisance; or
- F. Where the Officer determines that the fire violates any provision of this Ordinance.

SECTION 6. PROHIBITED ACTS AND ENFORCEMENT.

- A. No person, firm or corporation shall permit, authorize, conduct, or participate in the Burning of any open fire except in compliance with this Ordinance.
- B. No Burning shall be conducted during any High Fire Danger Period as declared by the Township, the County of Lancaster, or the Commonwealth of Pennsylvania, or during declared drought emergencies or periods of high winds. The Board of Supervisors may declare a burn ban prohibiting any and all Burning of outdoor fires when atmospheric conditions or local circumstances make such fires hazardous to the health, safety, and welfare of the Township. Such burn ban may be instituted or discontinued by the Board at any time, with the ban or discontinuance to be ratified at the next following meeting of the Board. Notice of the institution or discontinuance of a burn ban shall be given by:
 - 1. Publication in a newspaper of general circulation;
 - 2. Posting a notice at the Township municipal building;
 - 3. Posting a notice on the Township's website; and
 - 4. Providing written notice to Quarryville Fire Department and Bart Township Fire Company, which notice may be made via email.
- C. The Township Board of Supervisors, police officers, Zoning Officer, Building Code Official, Code Enforcement Officer, Fire Chief of a department with jurisdiction within the Township (Bart Township Fire Company, Strasburg Fire Company, and Quarryville Fire Department), or any other duly authorized agent shall have the power and duty to enforce the provisions of this chapter.

SECTION 7. VIOLATIONS AND PENALTIES. Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding brought before a Magisterial District Judge, be guilty of a summary offense and shall be punishable by a fine of not less than \$300 nor more than \$1,000 for each offense, plus costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Ordinance, and each section of this Ordinance which is violated shall be considered a separate violation.

SECTION 8. PUBLIC NUISANCES. A violation of this Ordinance or of any order issued by the Township of Eden under this Ordinance shall constitute a public nuisance. The Township of Eden shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Township of Eden may recover the expenses of abatement. Wherever the nuisance is maintained or continued contrary to this Ordinance or any order issued pursuant to this Ordinance, the nuisance may be abatable by Township officials or agents. Any person who causes the public nuisance shall be liable for the cost of abatement.

SECTION 9. SEVERABILITY. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect and be in force five (5) days after its enactment by the Township as provided by law.

DULY ORDAINED AND ENACTED this 9th day of **December, 2024**, by the Board of Supervisors of the Township of Eden, Lancaster County, Pennsylvania, in lawful session duly assembled.

EDEN TOWNSHIP BOARD OF SUPERVISORS

Joseph L. Rineer, Chairman

David G. Rineer, Supervisor

Lawrence M. Stoltzfus, Supervisor

CERTIFICATE

I, Szilvia Troutman, Secretary of the Board of Supervisors of Eden Township, Lancaster County, Pennsylvania (“Township”) certify that: The foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which duly was enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township at a meeting held on the 9th day of December, 2024; such Ordinance has been duly recorded in the Ordinance Book of the Township; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. § 701 *et seq.*, as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township of Eden, this 9th day of December, 2024.

(Assistant) Secretary

(TOWNSHIP SEAL)