

NEWBERRY TOWNSHIP  
YORK COUNTY, PENNSYLVANIA

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ORDINANCE NO. 395

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**AN ORDINANCE OF NEWBERRY TOWNSHIP AMENDING AND RESTATING THE  
TOWNSHIP'S ORDINANCE RESTRICTING OPEN FIRES AND BURNING BY THE  
ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND  
DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING  
PENALTIES FOR VIOLATION.**

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**SECTION 101. Short Title.** This Ordinance shall be known as the Newberry Township Open Burning Ordinance.

**SECTION 102. Definitions.** As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

This Ordinance identifies and regulates the following types of burning:

- 1.) Open Burning
- 2.) Personal Use Burning
- 3.) Recreational and Ceremonial Burning
- 4.) Outdoor Furnace and Heating Devices Burning

**ADULT PERSON** - Any individual who has attained to age of 18 years.

**BOARD** - The Board of Supervisors of Newberry Township, York County, Pennsylvania.

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

**BURNING BAN** - A period of time when all burning other than burning for the purpose of preparing food in grills or smoker grills shall be prohibited by declaration of the Board of Supervisors in order to protect the health, safety and welfare of the residents of Newberry Township.

**CLEARING AND/OR GRUBBING WASTE** - Trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction, or for agricultural management and conservation practices. The Term does not include demolition wastes and dirt laden roots.

COMPETENT ADULT - An individual eighteen (18) years or older with the physical and mental capacity to supervise a fire.

FURNACE - Any enclosed device specifically designed for burning any material for the production of heat.

GARBAGE - All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR - Any device specifically designed for the destruction by burning of refuse, sewage sludge, or any other combustible material.

OPEN BURNING - Any fire not confined in a receptacle of acceptable construction (metal, fifty- five (55) gallons or smaller, or as described elsewhere in this ordinance for personal use fires.

OUTDOOR FURNACE BURNING - Any furnace type or boiler style burning apparatus which uses wood or fossil fuels to heat dwellings on a property, whether those dwellings are occupied or not. These furnaces are typically detached from the main dwelling.

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

PERSONAL USE BURNING - Any open burning of the materials which are placed in an area no greater than 5 feet in diameter. Personal Use Fires, must be inside of a fireproof containment such as is described elsewhere in this ordinance, and/or in fire rings, chimineas, fire pits which have brick walls for containment use, grills, or outdoor fire places.

RECREATIONAL OR CEREMONIAL BURNING - Any open burning of the materials which are placed in an area greater than 5 feet in diameter, lit for recreational or ceremonial purposes, and not considered open burning as described elsewhere in this ordinance. This definition is limited to fires that use wood or wood products that are not associated with land clearing or construction sites.

REFUSE - Garbage, rubbish and trade waste.

RESIDENTIAL AREA - Any area which the primary uses are single family dwellings with lot sizes less than 43,560 square feet.

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, furniture, tin cans, glass, crockery, masonry and other similar materials.

RURAL AREA - Any area which the primary uses are single family dwellings or agricultural uses with lot sizes in excess of 43,560 square feet.

SALVAGE OPERATION - Any business, trade or industry engaged in whole or part in salvaging or reclaiming any product or material, including but limited to, metals, chemicals, shipping containers or drums.

SMOLDERING – As used herein, shall have the same meaning as “burning” and any smoldering shall be deemed a “burning”.

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

WOOD AND WOOD PRODUCTS - Trunks of trees and limbs of trees exceeding four inches (4") in diameter, and all products of, or made from, wood (eg. charcoal, pellet firewood, etc.).

**SECTION 103. Regulations.** Within the Township limits, all Persons shall observe and obey the following:

1. No Burning of any plastic, paper or building materials.
2. No Burning of pressure or chemically treated wood.
3. No Burning of Poison Ivy, Poison Sumac, Poison Oak.
4. Open Burning shall be limited to daylight hours only.
5. All personal use, Recreational and Ceremonial Burning shall use only Wood or Wood Products (eg. charcoal, pellets, firewood, etc.).
6. All Burning shall be maintained and kept under the supervision of a Competent Adult equipped with fire extinguishing materials and equipment.
7. All Burning including Smoldering shall be thoroughly extinguished after the use thereof has been completed.
8. All smoke, and/or ash emissions which are or may be objectionable, offensive or deleterious to human or animal health, that shall permeate or cross over neighboring property lines, and/or fall onto buildings, vehicles or vegetation, such Burning shall be deemed unlawful under this Ordinance. And therefore, such Burning may be suspended at the discretion of the appropriate appointed enforcement officer of the Township, when such conditions exist.
9. No Person shall conduct any fire on any street, sidewalk, alley or public ground of the Township, except where lawful and previously approved, and where a designated area has been set aside or reserved, for this purpose and an appropriate container has been provided to contain such a fire.

10. No Burning of recyclable materials under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, as amended.
11. No Burning of insulation from copper or other wiring, solid waste and/or construction waste as defined by the Pa. Solid Waste Management Act and 25 PA Code 271.1.
12. No Open Burning, Recreational or Ceremonial Fires shall be permitted within 100 feet of any building/structure or any wooded area whether or not owned by any person setting the fire, and whether or not occupied.
13. No Open Burning, Recreational or Ceremonial Fires shall be permitted within 100 feet of a property line except with the consent of the adjacent property owner and occupant.
14. No Person shall ignite or feed, cause, suffer, allow or permit, the maintenance of any open fire, in the conduct of a Salvage Operation, on any property under his/her control, outside of any building, or, in any public or private place, outside any building.
15. Burning shall be prohibited during officially declared Burning Bans. Burning Bans shall be determined by the Newberry Township Fire Department, or its successor, and the Newberry Township Manager in a jointly signed notice. The Notice shall be provided to the Chief of Police and shall be announced to the public as widely as possible.

**SECTION 103.1. Outdoor Furnaces and Heating Devices Burning**

1. Fuel substances permitted for combustion in exterior Furnace installations shall be limited to natural gas, propane, home heating oil, coal, firewood, pellets, corn, and untreated lumber.
2. The Burning and combustion of flammable and volatile substances and material such as but not limited to, trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties, and pressure-treated wood) human and animal waste, leaves, paper products and cardboard are strictly prohibited.
3. The use of Outdoor Furnaces and Heating Devices shall be permitted only in Agriculture and Rural Residential Zoning districts. Any such devices having already been installed at the time of adoption of this Ordinance shall be permitted.
4. All Outdoor Furnaces and Heating Devices shall be set back not less than one hundred (100) feet from the nearest lot line.
5. Outdoor Furnaces shall be operated only between September 1, and May 31, unless the Furnace is being used to provide domestic hot water service.
6. All Outdoor Furnaces and Heating Devices shall be equipped with properly functioning spark arrestors.

7. All Outdoor Furnaces and Heating Devices shall be provided with a permanently attached stack or chimney, the height of which shall be the greater of one of the following:

- Four (4) feet above the highest point of any structure, building or wall within a fifty foot (50') radius of the heating device: or
- A minimum of seventeen (17) feet in height measured from the ground at and on which the device is located: or
- Meet or exceed the guidelines of the manufacturer of the Furnace or heating device.

8. All Outdoor Furnaces and Heating Devices installed within the Township subsequent to the adoption of this Ordinance are required to meet emission standards, if any, currently required by the Environmental Protection Agency (EPA) and the Pennsylvania Department of Environmental Protection (DEP). Emission standards currently required by the EPA or (DEP) are hereby adopted by reference together with any amendments or modifications made to them in the future.

**SECTION 104.** **Exceptions.** The prohibitions contained in Section 103 are subject to the following exceptions;

1. A fire set to prevent or abate a fire hazard.
2. A fire set for the purpose of instructing or training firefighting or emergency response personnel.
3. A fire set for the prevention and control of disease or pests.
4. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
5. A fire set in conjunction with the Burning of Clearing and/or Grubbing Waste, (exclusively for agricultural management and conservation practices and protection). Clearing and/or Grubbing Waste must originate from the same property, but, such Burning shall not take place within 100 feet from any building/structure.

**SECTION 105.** **Required Notifications.** Individuals conducting all Open Burning shall be required to notify the York County Emergency Control prior to the commencement of the Burning and again when the Open Burning is completed.

**SECTION 106.** **Enforcement.** The Board shall appoint the Township Manager, Fire Department, Codes Enforcement Officer, Police Department, Fire Commissioner, or other enforcement officer(s), who shall have the power to enforce the provisions of this ordinance.

**SECTION 107.** **Penalties.** Any Person who shall violate any provision of this ordinance shall, upon conviction thereof, in a criminal proceeding, be sentenced to pay a fine of not more than One Thousand dollars (\$1,000.00), together with costs of prosecution, and in default of payment,

to imprisonment for a term not to exceed 30 days, unless otherwise, so ordered, by a court of law.

**SECTION 108. Repealer.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

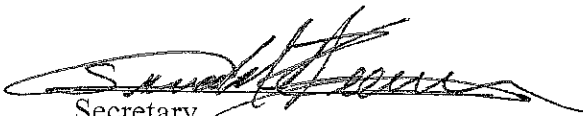
**SECTION 109. Severability.** If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity, shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board, that this Ordinance would have been adopted, has such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

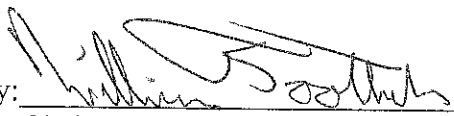
**SECTION 110. Effective Date.** This Ordinance shall become effective five (5) days after adoption.

ORDAINED AND ENACTED this 29<sup>th</sup> day of September 2016.

Attest:

NEWBERRY TOWNSHIP  
YORK COUNTY

  
Secretary

By:   
Chairman