

ORDINANCE NO 4 OF 2006

AN ORDINANCE OF FOSTER TOWNSHIP RESTRICTING OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATION.

The Supervisors of Foster Township hereby ordain:

Section 1. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

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.

BOARD OF SUPERVISORS – the Board of Supervisors of Foster Township.

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

OPEN FIRE - a fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

PERSON - any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

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.

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.

Section 2. Regulations.

Within the Foster Township limits, no person shall:

- A. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside any building.
- B. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse, or in the conduct of a salvage operation on any property under his control outside of any building.

Section 3. Exceptions.

Subject to the following exceptions:

- A. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - (1) The prevention of a fire hazard which cannot be abated by other means.
 - (2) The protection of public health.
- B. Open recreational fires (camp fires) shall be permitted.
- C. Open fires may be set by a person, provided:

- (1) Paper, wood, yard trimmings, leaves, branches and other nonputrescible vegetable matter only are burned.
- (2) There is no practical available alternative method for disposal of the material to be burned,
- (3) No hazardous or other objectionable condition will be created by such burning.
- (4) No such burning is allowed on any street or sidewalk within Foster Township.
- (5) All such burning takes place between the hours of 7 a.m. and 7 p.m. Monday through Saturday. No burning is allowed on Sunday or on State and Federal holidays.

Section 4. Responsible Adult.

All fires shall be attended to at all times by a responsible adult with readily available means of extinguishing the fire.

Section 5. Extinguish.

Fires, except for recreational fires, must be extinguished completely with no smoldering by 7 p.m.

Section 6. Fire Ban.

No burning is allowed during a Fire Ban Emergency as proclaimed by Luzerne County Emergency Management or Foster Township Board of Supervisors.

Section 7. Unlawful Substances.

1. Burning of refuse, garbage, rubbish, including but not limited to construction debris, aerosol cans, by-products of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.

2. Nothing herein shall be construed to permit or encourage the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance, nor shall any fire be permitted to burn by any persons if such burning is in violation of the Air Pollution Control Act or other legislation by the Commonwealth of Pennsylvania or the United States of America or any of their legislative agencies.
3. Fires shall be used only to burn readily combustible materials.

Section 8. Fire Ban Emergency.

The Board of Supervisors may declare a fire ban emergency in Foster Township with or without consultation with the fire chiefs of the volunteer fire companies operating within the Township during period of drought or other periods of high fire risk to woodlands or property within Foster Township. Upon the Board of Supervisors declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors. The Township shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation. In addition, the Township may issue news releases to all communication media, including radio, television and newspapers.

Section 9. Additional Costs.

1. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this Ordinance, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for use of the fire fighting equipment pursuant to Resolution No 3 of 2001, as the same may be amended from time to time.
2. These charges shall be in addition to and not in lieu of any penalties provided elsewhere in this Ordinance.

Section 10. Enforcement.

- A. The Board of Supervisors of Foster Township shall appoint the Foster Township Enforcement Officer who shall have the power to enforce the provisions of this Ordinance.
- B. Upon receiving a written complaint that an open fire is set in violation of the terms of this Ordinance, the Foster Township

Code Enforcement Officer shall make an investigation, and if the complaint is found to be true, a summary citation prepared in accordance with the Pennsylvania Rules of Criminal Procedure shall be issued against the responsible party. All complainants must join in the filing of the summary citation and appear as a witness at the subsequent hearing.

Section 11. Penalties.

Any person who shall violate any of the provisions of this Ordinance shall upon conviction in a summary proceeding brought in the name of the Township before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure be sentenced to pay a fine of not more than \$300.00 and the costs of prosecution and in default of payment to imprisonment for a term of not to exceed 90 days, provided that each day(s) violation of any of the provisions of this Ordinance shall constitute a separate offense.

Section 12. Repealer.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 13. 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 Foster Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 14. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

DULY ENACTED AND ORDAINED this 11 day of Dec,
2006, by Foster Township, Luzerne County, Pennsylvania in public session duly
assembled.

By: [Signature]
Chairman

[Signature]
Vice Chairman

[Signature]
Secretary/Treasurer

ATTEST:

[Signature]
Foster Township Secretary

(SEAL)