

ORDINANCE NO. 1 of 2023

PLYMOUTH TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF PLYMOUTH, LUZERNE COUNTY, PENNSYLVANIA, AMENDING ARTICLE XV: FIRE PREVENTION AND FIRE PROTECTION, OF THE TOWNSHIP'S HOME RULE CHARTER, TO ESTABLISH A NEW PART 1503: OPEN BURNING RESTRICTIONS

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Plymouth, Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

§ 101. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

BUILDING – the inclusive term for houses, apartment houses, commercial and industrial buildings, garages, sheds, storage buildings or any type of construction, be it wood, metal, stone, brick, cement or cinderblock or any combination thereof.

BURN OR BURNING – burn or burning shall include not only visible flames but also any visible smoke emanating from the burned materials after the flames have died out.

BURNER – the inclusive term for a metal, brick, stone or cement or cinderblock container in which a fire is ignited.

CHIMINEAS- a freestanding front-loading fireplace or oven with a bulbous body and usually a vertical smoke vent or chimney used for outdoor heating or cooking.

CODE ENFORCEMENT OFFICER – one of the persons authorized by the Plymouth Township Board of Supervisors to administer and enforce the provisions of the Ordinance. Other persons also authorized to administer and enforce this Ordinance include any state police officer and State Constable and his or her designee.

CONFINED BURNING – to ignite, light, set a match to or set a fire in a limited, restricted, or contained non-combustible container.

CONTROLLED OPEN BURNING – to ignite, enkindle, light, torch off, set a match to, or set ablaze or a fire in open view, uncovered, disclosed, and unobstructed.

DAWN – the first appearance of light in the morning followed by sunrise.

DUSK – the darker part of twilight especially at night.

FIRE – the inclusive term for fire, fires, burns, flames, the smoke therefrom, the smoldering when the flames have subsided and the smoke when the flames have subsided as long as such smoke is visible.

GARDEN MATERIALS – the inclusive term for leaves, branches, yard trimmings, and any other non-putrescible vegetable matter.

PERSON- includes any person, partnership, firm, association, corporation, 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, treated and painted wood, excelsior, paper, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials.

TOWNSHIP- Plymouth Township, Luzerne County, Pennsylvania.

TRASH – the inclusive term for solid, liquid, or gaseous waste products which are composed wholly or partly of such materials as garbage, rubbish, trade waste, industrial, commercial and domestic waste, rags, animal feces, plastic or plastic products, petroleum base products, cans, bottles, containers, tires, greases and magazines.

§ 102. Outdoor Burning Prohibited. It shall be unlawful for any person to burn treated or painted wood, brush, trash, papers, rubbish, garbage, rubber, tar, plastics, grass, newspapers, magazines, cardboard, garden materials, paper, and paper products out of doors in Plymouth Township. This section shall not prohibit the use of an outdoor fire for cooking or for recreation.

§ 103. Other Burning Prohibited.

1. No person shall burn any treated or painted wood, brush, trash, papers, rubbish, garbage, rubber, tar, plastics, grass, newspapers, garden materials paper and paper products, anywhere indoors in Plymouth Township except in an incinerator complying with all applicable local, state and federal laws and ordinances.

2. No person may permit the open burning of material in an outside area in a manner that:

- (a) The emissions are visible, at any time, at the point such emissions pass outside the property of the person on whose land the open burning is being conducted.
- (b) Malodorous air contaminants from the open burning are detectable outside the property of the person on whose land the open burning is being conducted.
- (c) The emissions interfere with the reasonable enjoyment of life or property by other persons.

animal and vegetable matter, garbage, construction debris, and other material which creates an odor or black smoke when being burned.

- (d) The person responsible for igniting the fire shall take the necessary safety precautions to ensure that the fire cannot spread and can be easily extinguished in case of emergency. The person igniting a fire shall not leave the open or confined fire unattended until all materials is totally burned and the fire has been extinguished.
- (e) Persons shall take all necessary measures to make certain that the fire is extinguished by dusk.

3. The Board of Supervisors may allow the burning of leaves in areas within the Township during the spring, summer and fall months for a specified period of time. The specified time period is for garden clean-up only and shall be posted in the newspaper and at the Plymouth Township Building.

4. This Ordinance shall not be constructed to prohibit wood fires in fireplaces, stoves, heaters or furnaces, safely designed, constructed and installed for such purposes, and complying with all applicable laws and ordinances.

5. This Ordinance does not prohibit or apply to outdoor wood fires for recreation, cooking or ceremonial purposes or outdoor gas or electric cooking grills or charcoal burners or chimineas used for heating or cooking purposes.

6. This Ordinance does not prohibit any fires set for the purposes of instructing personnel in fire-fighting, provided such training is approved by the Department of Environmental Protection and State Fire Academy and the local fire department serving the Township.

7. Exception to all these exemptions is when any of the fire companies serving Plymouth Township (the "Fire Companies"), Plymouth Township Supervisors or any Emergency Management Agencies place a ban on all types of burning when conditions warrant.

§105. Enforcement. The Pennsylvania State Police, any Pennsylvania State Constable and the Plymouth Township Code Enforcement Officer shall all have the power to administer and enforce the provisions of this Ordinance.

§106. Violations and Penalties.

1. Except as otherwise provided below, any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to the payment of a fine of Fifty (\$50.00) Dollars for a first offense; One Hundred Fifty (\$150.00) Dollars for a second offense; and Three Hundred (\$300.00) Dollars for a third and subsequent offense; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

- (d) The emissions cause damage to vegetation or property.
 - (e) The emissions are or may be deleterious to human or animal health.
3. No person shall burn or cause or permit to be burned any plastic or plastic products within the Township.

§104. Exemptions.

1. Controlled Burning shall be allowed every Tuesday, Thursday and Saturday between dawn and dusk provided that:
- (a) The property where the Controlled Open Burning is being conducted must be in an area which is not less than 500 feet from the nearest residence excluding that of the property owner.
 - (b) Only items to be burned would be non-recyclables, refuse which is organic, such as garden materials and other materials that can be totally burned. Items to be burned may not include plastic or plastic products, table refuse, animal and vegetable matter, garbage, construction debris, and other material which creates an odor or black smoke when being burned.
 - (c) The person responsible for igniting the fire shall take the necessary safety precautions to ensure that the fire cannot spread and can be easily extinguished in case of emergency. The person igniting a fire shall not leave the fire unattended until all materials is totally burned and the fire has been extinguished.
 - (d) Persons shall take all necessary measures to make certain that the fire is extinguished by dusk.
2. Confined Burning shall be permitted every Tuesday, Thursday and Saturday between dawn and dusk provided that:
- (a) Combustible material may be burned if the fire is contained in a non-combustible container covered with a screen or other covering to prevent dispersal of unburned material.
 - (b) The size of the container in which confined burning will be conducted may not exceed the size of a 55-gallon drum or its equivalent. A container may not include a pit, but may include a masonry type outdoor fireplace.
 - (c) Only items to be burned would be non-recyclables, refuse which is organic, such as garden materials and other materials that can be totally burned. Items to be burned may not include plastic or plastic products, table refuse,

2. In the event that the Fire Companies, Board of Supervisors or an Emergency Management Agencies declare a burning ban for whatever reason, the fines for a violation of this Ordinance shall increase so that any person who burns outdoors during a burning ban shall, upon conviction thereof, be subject to the payment of a fine of One Hundred Fifty (\$150.00) Dollars, plus Two Hundred Fifty Dollars (\$250.00) to cover costs for a total of Four Hundred Dollars (\$400.00) for a first offense; and Three Hundred Dollars (\$300.00) plus Two Hundred Fifty Dollars (\$250.00) for a total of Five Hundred Fifty Dollars (\$550.00) for a second and subsequent offense; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

3. In case any person fails to comply with this Ordinance and the Fire Companies have to extinguish a fire, then the Fire Companies may recover its costs of doing so to be collected from the Fire Companies from the offending person through a civil proceeding. Abatement and collection under this subsection shall be in addition to any other enforcement action set forth in this Section.

§107. Severance Clause. Should any section, paragraph, clause or phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of said ordinance shall not be affected thereby and shall remain in full force and effect.

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

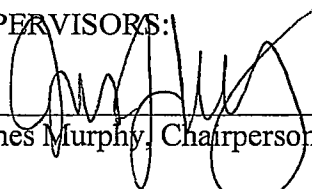
§109. Effective. This ordinance shall take effect immediately upon adoption for the Plymouth Township Board of Supervisors.

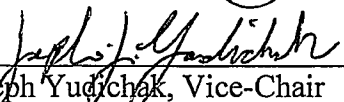
ENACTED AND ORDAINED INTO AN ORDINANCE THIS 5TH DAY OF JUNE, 2023.

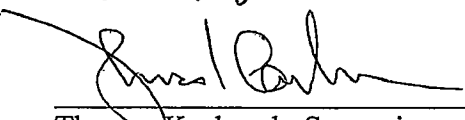
ATTEST:


Steven Grzymiski, Secretary/Treasurer

PLYMOUTH TOWNSHIP BOARD OF SUPERVISORS:


James Murphy, Chairperson


Joseph Yudichak, Vice-Chair


Thomas Kachurak, Supervisor