

EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-853

**AN ORDINANCE OF THE TOWNSHIP OF EXETER, BERKS COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 136 – BURNING, OPEN**

WHEREAS, Section 1601 of the Second Class Township Code, 53 P.S. § 66601, authorizes the Exeter Township Board of Supervisors (“Board”) to adopt, amend, repeal or revise existing ordinances;

WHEREAS, Part II, Chapter 136 of the Code of the Township of Exeter (“Code”) governs and regulates open fires and outdoor fires; outdoor fireplaces and charcoal grills; outdoor patio stoves, chimneys, factory-built metal novelty stoves; indoor fireplaces, woodburning and coal stoves; solid-fuel heaters; incinerators; the handling of ashes and combustible rubbish; and permits therefor;

WHEREAS, the Township desires to repeal and replace the existing provisions within Part II, Chapter 136 of the Code with the attached language for the purpose of recognizing additional burning privileges for agricultural operations;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Exeter, Berks County, Pennsylvania, as follows:

§ 136-1 Definitions.

For the purposes of this chapter, the following terms shall be defined as set forth below, unless a different meaning is plainly required by the context.

AGRICULTURAL BURNING

Burning occurring on a property with a normal agricultural operation as defined in the Right to Farm Act (3 P.S. §§ 951-957).

AGRICULTURAL COMMODITY

Agricultural, aquacultural, horticultural, viticultural and dairy products, livestock and the products thereof, ranch-raised furbearing animals and the products thereof, the products of poultry and bee raising, forestry and forestry products and any and all products raised or produced on farms intended for human consumption and the processed or manufactured products thereof intended for human consumption, transported or intended to be transported in commerce.

AUTHORITY HAVING JURISDICTION (AHJ)

Fire Code Official, police officer, Code Enforcement Officer or Officer of the Exeter Township Volunteer Fire Department.

BRUSH

Bushes, shrubs, thickets, tree trimmings, hedge clippings and small trees.

LEAF WASTE

Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

NONORGANIC MATERIAL

Material derived or formed from inanimate objects, other than vegetables, such as tin cans, glass crockery, metals, plastic and similar materials.

OPEN BURNING

Burning any material in the open atmosphere, including burning in fifty-five-gallon drums, outdoor fireplaces or other containers.

ORGANIC MATERIAL

Material derived from living organisms such as wood, paper and yard scraps.

PERSON

Any natural person, partnership, firm, association or corporation.

RECYCLABLE

Any material that is required to be recycled in Exeter Township under the Pennsylvania Act 101, including scrap lumber (nontreated/painted) and brush.

YARD WASTE

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

§ 136-2 Open fires and outdoor fires.

A. It shall be unlawful for any person to open burn any material, including the following at any time in any zone within Exeter Township: household trash, books, magazines, newspapers, cardboard and/or any items that are required to be recycled in Exeter Township under the Pennsylvania Act 101, including leaf waste and scrap lumber or any vegetation, plywood, drywall, plastic products, insulation material, upholstered furniture, garbage, dead animals, human and animal excrement, human and animal hair, 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 wiring, solid waste and/or construction waste as defined by the Pennsylvania Solid Waste Management Act and 25 Pa. Code § 271.1, except where fire or burning operations result from:

- (1) Any fire set for the purpose of training and instructing authorized personnel in firefighting, and training of persons in the use of portable fire extinguishers (permit required).
- (2) Any campfire or bonfire solely for organized recreational or ceremonial purposes

(permit required).

(3) Any fire set for the prevention and/or control of disease of pests, rats, snakes, bees, etc. (permit required).

(4) Agricultural Burning as set forth in § 136-3 below.

B. The AHJ may suspend the above regulations at any time when the following conditions exist:

(1) When smoke and/or ash emission are or may be objectionable, offensive or deleterious to human or animal health or permeate or crosses neighboring properties, and/or falls on buildings, vehicles or vegetation.

(2) When extreme dry conditions, drought or high winds warrant a ban on all burning.

§ 136-3 Agricultural Burning.

Properties on which there is an agricultural operation that are ten or more contiguous acres in area or are less than ten contiguous acres in area but with an anticipated yearly gross income of at least \$10,000 from the agricultural operation are permitted to burn agricultural by-products only (no household refuse, construction materials or similar materials). A Fire Permit (Agricultural Burning) is to be obtained from the fire marshal's office prior to starting any agricultural burning. A Fire Permit (Agricultural Burning) shall be valid until the end of the calendar year in which it was issued.

The following conditions apply to agricultural burning:

1. Open burning of agricultural commodities in their unmanufactured state is permitted. Agricultural commodities include field tree limbs and trimmings, field brush accumulated as part of farm maintenance and yard waste.
2. The agricultural commodities that are burned must originate from the property for which the Fire Permit (Agricultural Burning) was obtained.
3. Refuse, which includes garbage, trash, recyclables, plastics, building materials, tires, and other materials are not agricultural commodities and shall not be burned outdoors and on the premises.
4. Agricultural burning shall be performed during daylight hours.
5. No burning or smoldering is permitted outside of daylight hours.
6. Agricultural burning may be suspended due to when extreme dry conditions, drought or high winds warrant a ban on all burning.
7. Fires for agricultural burning shall be at least 50 feet from any structure, property line and combustible material.
8. An adult 18 years of age or older shall be present on the property at all times during the

burning.

9. A portable fire extinguisher with a minimum 4-A rating or garden hose shall be readily available for immediate use.
10. Contact the Berks County Department of Emergency Services at the phone number provided on the Fire Permit (Agricultural Burning) prior to each agricultural burn providing the property owner name, contact phone number, property address and proposed day and time of burn.

§ 136-4 Open Burning.

- A. For open burning other than Agricultural Burning, a permit must be obtained in accordance with § 136-10, below. Open burning must be located at least fifty (50) feet from any building or structure. Open burning must also be located at least seven (7) feet away from a property line. Brush to be burned must originate from the same property. No burning or smoldering is permitted outside of daylight hours, except as provided in Sections 136-5 and 136-6.
- B. Fires in approved containers are permitted to be at least 15 feet from a building or structure.
- C. Where the pile size is 3 feet or less in diameter and 2 feet or less in height, fires shall be at least 25 feet from a building or structure.
- D. Refuse, which includes garbage, trash, recyclables, plastics, building materials, tires, and other materials are not agricultural commodities and shall not be burned outdoors and on the premises.
- E. Open burning may be suspended due to when extreme dry conditions, drought or high winds warrant a ban on all burning.
- F. An adult 18 years of age or older shall be present on the property at all times during the burning.
- G. A portable fire extinguisher with a minimum 4-A rating or garden hose shall be readily available for immediate use.

§ 136-5 Outdoor fireplaces and charcoal grills.

Outdoor fireplaces and charcoal grills shall be permitted upon private property within Exeter Township solely for the purpose of cooking food. The following regulations shall apply:

- A. No person shall use such fireplaces or grills for the burning of materials as outlined in § 136-2A of this chapter.
- B. Outdoor fireplaces or outdoor grills shall not be used for such purposes other than cooking food.
- C. Outdoor grills shall not be used indoors or in any enclosed areas that are not properly

ventilated, i.e., garages, etc.

- D. Outdoor fireplaces and charcoal grills shall be at least 7 feet from the property line.
- E. Burning in an outdoor fireplace or grill is permitted outside of daylight hours.
- F. If smoke, ash, or smell emitting from such patio stoves, chimneys, or factory-built novelty stoves becomes objectionable or offensive to neighboring properties, the AHJ may suspend the operation of same.

§ 136-6 Outdoor patio stoves, chimneys, factory-built metal novelty stoves.

Outdoor patio stoves, chimneys, or factory-built metal novelty stoves shall be permitted outside residential private property within all zones of Exeter Township, provided that the following regulations apply.

- A. No persons shall use such patio stoves, chimneys or factory-built novelty stoves for the burning of any material outlined in § 136-2A of this chapter.
- B. Outdoor patio stoves, chimneys or factory-built metal novelty stoves shall be at least 7 feet from the property line.
- C. Burning in an outdoor patio stove, chimney or factory-built novelty stove is permitted outside of daylight hours.
- D. If smoke, ash, or smell emitting from such patio stoves, chimneys, or factory-built novelty stoves becomes objectionable or offensive to neighboring properties, the AHJ may suspend the operation of same.

§ 136-7 Indoor fireplaces; woodburning and coal stoves; solid-fuel heaters.

Fireplaces and woodburning or coal stoves shall be permitted inside residential private property within all zones of Exeter Township solely for the purpose of heating the dwelling unit. The following regulations shall apply:

- A. Only seasoned firewood, coal or solid fuels recommended by the manufacturer may be burned in such fireplaces, woodburning or coal stoves or solid-fuel heaters.
- B. No person may use such fireplaces, woodburning or coal stoves or solid-fuel heaters for the burning of any material as outlined in § 136-2A of this chapter.
- C. Such fireplaces, woodburning or coal stoves or solid-fuel heaters shall not be used for such purpose when, in the judgment of AHJ, a fire hazard is created by such use and operation and/or any danger is posed to the occupants therein or the neighboring buildings and/or occupants.
- D. If the smoke, ashes and/or smell emitting to the outside atmosphere from the chimney, stove pipe or flue are objectionable or offensive to the general public, the operation of such fireplace, woodburning or coal stove or solid-fuel heater shall be suspended by the AHJ.

§ 136-8 Incinerators.

It shall be lawful to burn combustible rubbish and materials within Exeter Township by means of an enclosed outdoor or indoor incinerator operated by chemical or thermal means, provided the incinerator is attached to a proper stack or chimney and complies with the current Exeter Township ICC codes, and provided the following regulations are adhered to:

- A. The incinerator shall be the type approved by an authorized representative of the Pennsylvania Department of Health and the Pennsylvania Department of Environmental Protection. Both of the above departments shall give evidence of approval in written certification of inspection, and approval.
- B. All owners of property within Exeter Township on or in which there exists an incinerator shall advise the Township office of such incinerator and the location of the same.
- C. The AHJ may terminate the use of any incinerator when found to be faulty or for the reasons stated in § 136-2B(1) and (2) of this chapter.

§ 136-9 Handling of ashes and combustible rubbish.

Ashes, smoldering coals, wood and embers or other material liable to spontaneously ignite shall not be deposited or allowed to remain within 15 feet of any combustible materials but shall be deposited in noncombustible containers. Rubbish of any kind shall not be allowed to accumulate.

§ 136-10 Permits.

All permits required under any provisions of this chapter shall be issued in accordance with Section 105 of the International Fire Code adopted by Exeter Township with the following provisions.

- A. An "Open Burning" permit shall be obtained from the Township office a minimum of 48 hours prior to burning. The applicant shall provide name, address, phone number, the purpose for the permit and attach a drawing of the proposed burning site.
- B. Permits to burn the first full weekend of the month may be obtained for a single month or for an entire calendar year. Other open burning permits must be obtained for each special event (i.e., bonfires, campfires and cookouts).
- C. For Agricultural Burning, permits must be obtained and notice shall be provided to the Berks County Department of Emergency Services as required in § 136-3 of this chapter.
- D. Before the permit is issued, an inspection may be made by the AHJ to assure that the use of the permit complies with the provisions of the chapter and the International Fire Code.
- E. Any permit issued may be revoked for the protection of life or property or to prevent or abate the nuisances caused by such burning. (A nuisance would be defined as ash fallout or smoke accumulation in the area of residential occupancies.)
- F. If a person starts a fire without a permit or if a permit holder fails to comply with any term or condition of the permit, and as a result of that failure the Fire Department is required to suppress a fire, the person or permit holder is liable for the cost of fire suppression and subject

to fines in District Court.

G. Permit fees will be set from time to time by a duly adopted resolution of the Board of Supervisors.

§ 136-11 Violations and penalties.

Any person violating any of the provisions of this chapter or neglecting to comply with any order or notice issued pursuant hereto for violation of any section hereto shall, upon conviction before any District Justice, be subject to the payment of a fine of not less than \$300 nor more than \$1,000, and the payment of costs of prosecution for each offense, or shall be subject to imprisonment for a period not exceeding 30 days. Each day's continuance of any violation of this chapter shall constitute a separate offense, punishable by a like fine and imprisonment in default of payment thereof.

§ 136-12 Severability.

Should a court of competent jurisdiction declare any section, paragraph, clause or phrase of this chapter unconstitutional or invalid, the remainder of said chapter shall not be affected thereby, and shall remain in full force and effect.

§ 136-13 Repealer.

All ordinances or parts of ordinances or resolutions conflicting with the provisions of this chapter are hereby repealed to the extent of such conflict.

DULY ORDAINED and ENACTED as an Ordinance this ____ day of _____, 2023.

BOARD OF SUPERVISORS OF
EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

Chairman

Vice Chairman

Member

Member

Member

ATTEST:

Larry Piersol
Interim Township Manager

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2023-853 adopted by the Board of Supervisors of Exeter Township, Berks County, Pennsylvania at a regular meeting held on September 11, 2023, pursuant to notice as required by law.

Dated: _____

Exeter Township Secretary