

UPPER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 1599

AN ORDINANCE AMENDING PART II, GENERAL LEGISLATION, CHAPTER 234, "PEACE AND GOOD ORDER," TO ADD A NEW ARTICLE IV, "FIRES AND OPEN BURNING" TO PROSCRIBE CERTAIN ACTIVITY AND TO LEVY FINES FOR VIOLATIONS THEREOF

WHEREAS, in order to promote the health, safety and welfare of the residents of Upper Moreland Township, The Board of Commissioners has determined that it is necessary to strengthen and revise its regulations regarding outdoor fires, outdoor burning and open burning within the Township limits pursuant to section LXVI of section 1502 of the First Class Township Code; and

WHEREAS, The Board of Commissioners had previously adopted the International Fire Code containing certain regulations regarding outdoor burning that it now seeks to enhance and restate.

NOW THEREFORE, The Board of Commissioners does hereby ordain and enact the following:

SECTION ONE : Chapter 234, PEACE AND GOOD ORDER is hereby amended by adding the following :

ARTICLE IV – Fires and Open Burning

§234-8. Definition of Terms. Interpretation of words and phrases when used in this Article shall, for the purpose of this Part, have meanings as indicated below except in those instances where the context clearly indicates a different meaning:

OPEN BURNING - a fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue. Specific provisions in the 2009 International Fire Code (IFC) which was adopted by Upper Moreland Township, and as stated in this ordinance shall apply as follows:

- A. Open burning, recreational fires and the use of portable outside fireplaces shall be constantly attended until the fire is extinguished.
- B. A minimum of one portable fire extinguisher or other approved on-site extinguishing equipment such as dirt, sand, water barrel or garden hose shall be available for immediate utilization.

- C. The fire code official or his/her designee is authorized to order the extinguishment of open burning that creates to or adds to a hazardous or objectionable situation.

OPEN-FLAME COOKING DEVICE - a manufactured cooking device, such as a barbecue grill, outside fireplace, or other outdoor appliance, solely intended for the cooking of food.

RECREATIONAL BURNING – For recreational purposes, use of outdoor chimineas or fireplaces is permitted with the exceptions stated under §234-9. Specific provisions in the 2009 International Fire Code (IFC) which was adopted by Upper Moreland Township, and as stated in this ordinance shall apply as follows:

- D. Recreational fires shall not be conducted within 25 feet of a structure or combustible material.
- E. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.
- F. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.
- G. Open burning, recreational fires and the use of portable outside fireplaces shall be constantly attended until the fire is extinguished.
- H. A minimum of one portable fire extinguisher or other approved on-site extinguishing equipment such as dirt, sand, water barrel or garden hose shall be available for immediate utilization.
- I. The fire code official or his/her designee is authorized to order the extinguishment of open burning that creates to or adds to a hazardous or objectionable situation.

§234-9. Unlawful Acts. Except as specifically authorized under this Article or permitted by the Township Fire Marshall in writing, no person shall cause, allow, permit or maintain an outdoor bonfire or open burning on a public or private street or right of way or on public or private property.

All burning, or open burning of the following is specifically prohibited:

- A. Garbage;
- B. Household, business, or industrial trash or similar waste products of every kind or nature;
- C. Loose leaves or yard trimmings (brush, grass and similar organic matter) on a street or on public or private property, whether in connection with any building operation, in an open dump or otherwise;
- D. Burning or Open burning that results in unreasonable quantities of dense smoke, noxious fumes, gas, soot, or cinders or burning that results in smoke condition impacting a neighboring property;
- E. Open burning that violates the provisions of the International Fire Code (IFC), as adopted by Upper Moreland Township; or
- F. Burning of material, which is required to be recycled under Pennsylvania Law.

§234-10. Exception.

The outdoor cooking of food shall be permitted in or on an open-flame cooking device, solely intended for the cooking of food, and in strict adherence with the manufacturer's use guidelines. Permitted open-flame cooking devices are limited to those specifically designed for cooking with the burning of charcoal, liquid petroleum (LP) gas, propane gas, or wood. Upon the completion of cooking, the flame must be extinguished.

§234-11 Variances. The Fire Marshal or his duly authorized representatives shall have authority to grant a variance from the provisions of this Article for reasons including but not limited to the following:

- A. To prevent or abate a fire hazard.
- B. For the purpose of instructing personnel in fire fighting.
- C. For the prevention and control of disease and pests.
- D. For fires set solely for ceremonial purposes.

§ 234-12. Violations and Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not less than One Hundred (\$100) Dollars nor exceeding One Thousand (\$1000.00) dollars and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Article continues shall constitute a separate offense. The Fire Marshal, Deputy Fire Marshal or any sworn Upper Moreland Township Police Department employee may issue citations for failure to comply with this ordinance.

§ 234-13. Inconsistency with Township Fire Code. To the extent the provisions of this Part are inconsistent with the provisions of the Township Fire Code this Article shall be controlling.

§ 234-14. Inconsistency with state law or regulation. Nothing herein is intended to abrogate state law or statewide applicable regulations dealing with open burning. To the extent that any provision of this ordinance is found to be in violation of any state law or regulation which is controlling, that provision is severed and the remainder of the ordinance shall continue in full force and effect.

SECTION 2. Severability. In the event that any section, sentence, clause, phrase or work of this Ordinance shall be declared illegal or unconstitutional by any court of competent jurisdiction, such declaration shall not prevent, preclude, or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

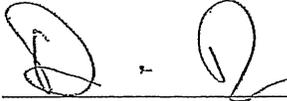
SECTION 3. Repealer. All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

SECTION 4. Effective Date. This ordinance shall be effective immediately upon its enactment.

ORDAINED AND ENACTED by the Board of Commissioners of Upper Moreland

Township on this 4th day of April, 2011.

Attest:



David A. Dodies, Secretary

UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS



R. Samuel Valenza, President