

BOROUGH OF FREEMANSBURG
Northampton County, Pennsylvania

ORDINANCE #2017 - 001
(Duly adopted June 6, 2017)

**AN ORDINANCE RESTATING AND ENACTING THE BOROUGH OF
FREEMANSBURG OPEN BURNING AND AIR POLLUTION CONTROL
ORDINANCE; PROVIDING PENALTIES FOR VIOLATION THEREOF;
SEVERABILITY; GENDER; REPEALER; AND EFFECTIVE DATE**

WHEREAS, Council of the Borough of Freemansburg has determined that burning from outdoor domestic fires, open fires and field fires should be limited for the health, safety and welfare of the residents of Freemansburg; and

WHEREAS, Council desires to regulate and restrict outdoor domestic fires, open fires and field fires and provide penalties for violation of said regulations as set forth hereinafter.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by Council of the Borough of Freemansburg, Northampton County, Pennsylvania, as follows:

Section 1.

This Ordinance shall be known as the “Borough of Freemansburg Open Burning and Air Pollution Control Ordinance”.

Section 2.

For the purpose of this Ordinance, the following terms shall have the meanings respectively ascribed to them in this section unless from the particular context it clearly appears that some other meaning is intended.

A. “Person”: Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.

B. “Borough”: Borough of Freemansburg, Northampton County, Pennsylvania.

C. “Council”: Council of the Borough of Freemansburg.

D. “Garbage”: All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

E. “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.

F. "Trade Waste": All solids or liquid materials 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.

G. "Refuse": Garbage, rubbish and trade waste.

H. "Open Fire": A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

I. "Outdoor Confined Fire": A fire confined within a metal or ceramic receptacle listed by Underwriters Laboratories for fire use. Outdoor confined fire shall also include a fire confined within a metal or ceramic receptacle determined suitable for fire use by the authorized enforcement agent of this Ordinance. Outdoor confined fire is commonly referred to as camp fire pit or ornamental fire pit. Outdoor confined fire does not include a furnace or incinerator.

J. "Field Fire": A fire which is set and maintained for the purpose of disposing of standing weeds in open fields or vacant lots

K. "Furnace": An enclosed device specifically designed for the production of heat. The production of heat may, but shall not be limited to, the utilization of electricity, solar, geothermal or the consumption or burning of fossil fuels, solid fuels or combustible materials. Furnace installation and use shall be governed by all applicable codes and regulations of the Borough.

L. "Incinerator": A furnace specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

M. "Volunteer Fire Company": The Freemansburg Fire Company No. 1 or other volunteer fire company or fire services provider recognized by Council by Resolution or Ordinance or mutual aid agreement.

Section 3.

Enforcement. The Borough Solicitor, Borough Manager, or her designee, any Borough police officer, or Borough code enforcement officer is hereby authorized to act on behalf of Council to enforce this Ordinance. The foregoing authorized enforcement agents of this Ordinance may (but are not obligated to) consult with any member of the Volunteer Fire Company regarding the enforcement of this Ordinance.

Section 4.

No person shall cause, suffer, permit or maintain any open fire, outdoor confined fire or field fire within the Borough except as permitted by Section 5.

Section 5.Exceptions:

1. Outdoor preparation of food for human consumption cooked in, on or over a device fueled by charcoal, natural gas, liquefied petroleum gas or wood, provided:

(A) Such device shall not burn refuse; and

(B) Such device shall not be operated within five (5') feet of any building, fence or piled combustible materials; and

(C) Such device shall be operated in an area free of weeds; and

(D) Operation of such device shall be attended by an adult at all times.

2. Outdoor confined fire, provided:

(A) Such receptacle shall not burn refuse; and

(B) Such receptacle shall not burn materials other than wood, except for fuel permitted by the outdoor confined fire receptacle's listing by Underwriters Laboratories; and

(C) The materials and fuel (if permitted by the outdoor confined fire receptacle's listing by Underwriters Laboratories) shall be confined to the inside of the receptacle; and

(D) Such receptacle shall be operated in an area free of weeds; and

(E) Operation of such receptacle shall be attended by an adult at all times; and

(F) Such receptacle shall not be operated within five (5') feet of any building, fence or piled combustible materials; and

(G) No hazardous or other objectionable condition is created by such burning; and

(H) Unless the metal or ceramic receptacle is determined suitable for open fire use by the authorized enforcement agent of this Ordinance, the receptacle must display its listing from Underwriters Laboratories on the receptacle.

3. Open fires may be set in the performance of an official duty of any legally recognized police or volunteer fire company officer, provided:

(A) Such open fire is necessary for the prevention of a fire hazard which cannot be abated by other reasonable means or the protection of public health; and

(B) Such open fire shall be attended and maintained at all times by the police or volunteer fire company responsible for the open fire.

4. Open fires may be set with the written approval of the authorized enforcement agent of this Ordinance, provided:

(A) There is no practical available alternate method for the disposal of the material to be burned; and

(B) Such open fire shall be attended by an adult at all times; and

(C) No hazardous or other objectionable condition will be created by such burning.

5. Open fires may be set with the written approval of Council for events including, but not limited to, bond fires or encampments, provided:

(A) No hazardous or other objectionable condition will be created by such burning.

(B) Volunteer fire company is present at all times to monitor the fire.

6. Field fires may be set with the written approval of Council, provided:

(A) There is no practical available alternate method for the disposal of the material to be burned; and

(B) No hazardous or other objectionable condition will be created by such burning; and

(C) Volunteer fire company is present at all times to monitor the fire.

In the event the authorized enforcement agent of this Ordinance determines any of the above conditions are not satisfied, upon verbal or written notice of said determination, the open fire or field fire, as the case may be, shall not be considered an exception to Section 4, shall cease immediately, and shall be subject to Section 4.

Section 6.

Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction before any magisterial district judge, be sentenced to pay a fine of not less than Fifty Dollars (\$50.00) but not more than One Hundred Dollars (\$100.00) for the first violation; and not less than Seventy-Five Dollars (\$75.00) but not more than Two Hundred Dollars (\$200.00) for the second violation; and not less than Two Hundred Dollars (\$200.00) but not more than Six Hundred Dollars (\$600.00) for the third violation and subsequent violations.

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, also pay court costs and reasonable attorney fees incurred by the Borough in enforcement proceedings. Each section of this Ordinance violated shall constitute a separate offense. Each day a violation exists shall constitute a separate offense. In default in the payment

of any fines or payments due by reason of this section, the violator shall be sentenced to jail for a period not exceeding thirty (30) days.

Section 7.

Severability. The provisions of this Ordinance are severable; and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of Council that this Ordinance would have been adopted as if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 8.

Gender. All references to she, her, hers and herself shall be considered gender neutral, and shall be deemed to represent the masculine, feminine and neuter subjects and objects.

Section 9.

Repealer. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed except as set forth herein. Specifically, Ordinance #250 enacted on September 7, 1971, is hereby repealed except for any enforcement action pending under Ordinance #250 at the effective date of this Ordinance in which case Ordinance #250 shall remain in effect for said enforcement.

Section 10.

Effective Date. This Ordinance shall be effective upon enactment.

DULY ORDAINED AND ENACTED this 6th day of June, 2017, by Council of the Borough of Freemansburg in lawful session duly assembled.

Attest:

Justine Parra
Justine Parra, Assistant Secretary

BOROUGH OF FREEMANSBURG

By Homer "Bud" Lorrach
Homer "Bud" Lorrach, President

APPROVED this 6th day of June, 2017.

Gerald Yob
Gerald Yob, Mayor

CERTIFICATE

I, the undersigned, Assistant Secretary of the Borough of Freemansburg, Northampton County, Pennsylvania (the "Borough") certify that the foregoing is a true and correct copy of an Ordinance of the Borough which was duly enacted by affirmative vote of the majority of the members of Borough Council at a meeting duly held on June 6, 2017, and that said Ordinance remains in effect, unaltered and unamended, as of the date of this certificate.

I further certify that Borough Council met the advance notice requirements of Act No. 93 of the General Assembly of the Commonwealth of Pennsylvania, approved October 15, 1998, by advertising the date of said meeting and posting a notice of said meeting on the bulletin board at the Municipal Building, 600 Monroe Street, Freemansburg, Pennsylvania, the place of the meeting.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough this 0th day of June, 2017.



Justine Parra, Assistant Secretary