

ORDINANCE NO. 02-2020

**MORGAN TOWNSHIP  
GREENE COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF MORGAN TOWNSHIP, GREENE COUNTY, PENNSYLVANIA, PROVIDING REGULATIONS RESTRICTING OPEN FIRES AND BURNING WITHIN THE TOWNSHIP, AND ESTABLISHING SPECIFIC REGULATIONS, SPECIFICATIONS AND DEFINITIONS; FURTHER DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATIONS.**

**WHEREAS**, Morgan Township is enacting an Ordinance that shall be known as the “Morgan Township Burning Ordinance of 2020”, establishing regulations governing outside burning of materials in the Township and prohibiting specified actions and omissions; and

**WHEREAS**, the Morgan Township Board of Supervisors are concerned about the detrimental effects that open burning may have on its residents; and

**WHEREAS**, the Morgan Township Board of Supervisors had previously adopted ordinances concerning outdoor burning and wish to amend the same; and

**WHEREAS**, Morgan Township Board of Supervisors believes it to be in the best interest and welfare of its residents to amend the current Burning Ordinance.

**NOW THEREFORE**, pursuant to the authority conferred upon it by the Second Class Township Code as amended, the Township Board of Supervisors of Morgan Township, Greene County, Pennsylvania, does hereby ENACT and ORDAIN the following:

**SECTION 1. SHORT TITLE**

This Ordinance shall be known as the “Morgan Township Outdoor Burning Ordinance of 2020.”

**SECTION 2. PURPOSE**

The purpose of this Ordinance is to regulate open burning within the Morgan Township as set forth herein.

**SECTION 3. DEFINITIONS**

For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

**Construction/Demolition Waste-** Solid waste resulting from construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals asphaltic substances, bricks, block, and unsegregated concrete. The term does not include the following if they are separate from other waste and are used as clean fill:

- A. Uncontaminated soil, rock, stone, gravel, brick and block, concrete and used asphalt.
- B. Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

**Contained Fire-** Any fire contained in a fire bowl, chimney or fireplace used for outdoor heat or cooking, or in an outdoor cooking appliance designed for the purpose of preparing foods (gas, electric, or charcoal grills or stoves, etc.).

**Enforcement Officer-**The Morgan Township Code Enforcement Officer, Morgan Township Police and/or Pennsylvania State Police shall be designated Enforcement Officers under this Ordinance.

**Fire Bowl-** Any device used for burning untreated wood in a copper or metal bowl no larger than sixty six (66") inches in diameter, which is suspended off the ground by a stand or as part of a table.

**Garbage-** All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**Open Fire -** Any fire contained in a burn barrel or other similar container, whether or not flames are visible during burning.

**Person-** An individual, partnership, organization, association, agency, firm, estate, or corporation and any other legal or commercial entity.

**Recreational Fire-** A fire that consists of natural, untreated wood which is confined in some manner (i.e. outdoor fireplaces, chimneys, fire bowls, etc.) intended to prevent the fire from spreading to the surrounding area.

**Refuse-** Garbage and rubbish.

**Responsible Adult-** An individual eighteen (18) years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

**Rubbish-** Solids not considered to be highly flammable or explosive, including, but not limited to diapers, animal waste, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials, or any other items or materials defined as "municipal waste" in the Municipal Waste Planning, Recycling & Waste Reduction Act, section 103, as amended.

**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, plastic shipping containers or drums.

**Trade Waste-** All solid or liquid material or rubbish resulting from the prosecution of any business, trade or industry, including but not limited to plastic products, 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 for the use associated with mining or preparation of coal or untreated wood products.

**Uncontained Fire-** A fire in which any material not prohibited to be burned by this Ordinance is burned in the open without being confined in any manner.

#### **SECTION 4. PROHIBITED ACTIVATES**

- A. It shall be unlawful to burn, ignite, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this Ordinance.
- B. It shall be unlawful to burn any of the following materials in any zoning district within Morgan Township:
  - a. construction/demolition waste;
  - b. garbage;
  - c. refuse;
  - d. rubbish;
  - e. trade waste;
  - f. by-products of salvage operations;
  - g. any plastic material, other than plastic grocery, shopping and/or trash bags, including but not limited to, nylon, PVC, polystyrene, urethane foam and synthetic fabrics, plastic films, plastic containers and plastic bottles; and
  - h. any other material not specified above which is not permitted to be burned according to the Pennsylvania Air Pollution Control Act, 35 P.S. Section 4001 et seq., its implementing regulations, including but not limited to 25 Pa. Code Section 129.14, and the Solid Waste Management Act and its implementing regulations, including but not limited to 25 Pa. Code Section 271.
- C. No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Morgan Township, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

- D. No uncontained fire shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the fire department for training purposes.

5. No open fire, recreational fire or uncontained fire shall be permitted to burn during a fire ban emergency as proclaimed by the Greene County Emergency Management, Greene County Commissioners or the Morgan Township Board of Supervisors.

#### **SECTION 5. PERMITTED ACTIVITIES**

- A. Uncontained 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; and/or
3. The purpose of fire-fighting training by the Township designated firefighting organization, if such training is commenced in accordance with Pennsylvania state law.

- B. In Zoning Districts designated as Village, Village Center and Single Family Residential the Township restricts burning as to the following activities:

1. Recreational fires as defined herein shall only be permitted between the hours of 7 p.m. and 11 p.m. unless the Township Board of Supervisors approves a permit for any other hours.
2. Open fires as defined herein utilizing only natural untreated wood or branches, logs, etc. that originate only from the residence where the open fire is occurring shall be allowed only with written permission from the Township Board of Supervisors and/or designee.
3. Pursuant to this paragraph it should be unlawful to allow any open fire and or recreational fire to burn within twenty five (25) feet of any building and/or structure.
4. No recreational fire or open fire as set forth in this paragraph shall be allowed within five (5) feet of any property line.
5. All open fires and/or recreational fires must be maintained and supervised by a responsible adult with a readily-available fire extinguishing apparatus within close proximity to the fire.
6. All open fires shall be confined in a non-combustible container.

C. In all other zoning districts of Morgan Township not specified in paragraph 5(B) may have controlled outdoor burning (open fires, recreational fires and/or uncontained fires) subject to the following regulations:

1. Open fires and/or uncontained fires are permitted between sunrise and sunset.
2. No open fire or uncontained fire shall be permitted to burn or smolder anywhere within Morgan Township between sunset and sunrise.
3. Recreational fires are permitted at any time so long as they comply with all other provisions of this Ordinance.
4. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within twenty-five (25') feet of any building or structure.
5. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within five (5') feet of any property line.
6. All open fires confined in a burn barrel shall be covered with a wire screen of one-half (1/2) inch or smaller mesh.
7. No recreational fire shall contain a fuel source of more than eight (8) cubic feet.
8. Prior to burning of any uncontained fire, the fire department shall be contacted by the resident who will be burning the fire to provide notice of the burn.

#### **SECTION 6. FIRE DEPARTMENT AUTHORITY**

The Township Fire Department, or other fire department if the situation necessities, whether called upon by the Code Enforcement Officer, Morgan Township Police, Pennsylvania State Police, or a citizen of the Township, shall have the authority to enter the property of any person who burns a fire in violation of this Ordinance for the purpose of extinguishing the fire.

#### **SECTION 7. ENFORCEMENT AGENCIES**

The Morgan Township Code Enforcement Officer, the Morgan Township Police and/or the Pennsylvania State Police shall be designated to have all power necessary to enforce the provisions of this Ordinance on behalf of the Township.

#### **SECTION 8. CRIMINAL ENFORCEMENT PENALTIES**

This Ordinance shall be enforced by an action brought before a district justice in the same manner provided for enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa. R. Crim. No. 83 (c) (relating to trial in summary cases). Any person, firm or corporation convicted of violating or permitting a violation of this Ordinance shall pay a fine not exceeding One Thousand (\$1,000) Dollars per violation and may be imprisoned to the extent allowed by law for the punishment of summary offenses. If the violation requires attendance of a Fire Company, the District Justice shall take the account of the costs incurred by the Fire Company in responding to the violation in determining the amount the fine to be levied. Each day's violation of this Ordinance shall constitute a separate offense. All fines and penalties collected for the violation of this Ordinance shall be paid to the Morgan Township Treasurer. The Board may delegate the initial determination of Ordinance violation and service of notice of violation to such officers or agents as the Township shall deem qualified for that purpose.

Any fire set, maintained or permitted to smolder in violation of this Ordinance is hereby declared to be a nuisance and shall be abatable as such by an appropriate legal action.

#### **SECTION 9. EQUITABLE AND OTHER REMEDIES**

No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies through the Court of Common Pleas of Greene County.

#### **SECTION 10. LIABILITY**

Morgan Township and its agents, officials, and representatives, shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of the Ordinance. The individual person or party responsible of any such fire shall bear sole liability for any damages caused as a result thereof.

#### **SECTION 11. SEVERABILITY**

In the event that any provision, section, sentence or portion of this Ordinance shall be held invalid, such invalidity shall not effect or impair any of the remaining provisions of this Ordinance, as the provision are severable and would have been enacted had not such invalid provisions been included herein.

#### **SECTION 12. REPEALER**

All Ordinances or parts of Ordinances that are inconsistent herewith are hereby repealed.

#### **SECTION 13. EFFECTIVE DATE**

This Ordinance shall take effect and be enforced from and after its approval as provided by law.

**ORDAINED AND ENACTED** into law by the Board of Supervisors of Morgan Township in lawful session assembled this 5th day of May, 2020.

**ATTEST:**

**MORGAN TOWNSHIP  
BOARD OF SUPERVISORS**

Relda K. Litteri  
Relda K. Litteri, Secretary/ Treasurer

BY: Shirl Barnhart  
Shirl Barnhart, Chairman

BY: Dominick Barbetta  
Dominick Barbetta, Vice- Chairman

BY: James E. Gayman, Sr.  
James E. Gayman, Sr. Supervisor