

**West Mead Township
Crawford County, Pennsylvania**

Ordinance No. 2016 - ____

AN ORDINANCE TO REENACT ORDINANCE NO. 2001-3, AS AMENDED BY ORDINANCE 2016-1, THE WEST MEAD TOWNSHIP BURNING ORDINANCE WITH AMENDMENTS TO PROHIBIT CERTAIN FIRES THAT CREATE NUISANCES AND TO EXPAND PENALTIES AND REMEDIES FOR FAILING TO COMPLY WITH ORDERS OF ENFORCEMENT OFFICERS

Be It Ordained and Enacted by the Board of Supervisors of West Mead Township, Crawford County, Pennsylvania, and it is hereby enacted and ordained by and with the authority thereof as follows:

The West Mead Township Burning Ordinance adopted October 2, 2001, Ordinance # 2001-3, as amended by Ordinance # 2016-1, is hereby amended to change the leaf burning regulations of the Ordinance so that the Ordinance shall be restated as follows:

Section 1. *Title.* The title of this Ordinance shall be the West Mead Township Burning Ordinance.

Section 2. *Purpose.* The purpose of this Ordinance is to prevent public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained; provide for fire protection within the Township; and to comply with Department of Environmental Protection regulations under Section 902 of Act 101, which prohibits the burning of recyclables collected in the Township. The Board of Supervisors has determined that environmental concerns and the public health, safety and welfare of the Township and its residents, requires proper regulation of the outside burning of materials.

Section 3. *Definitions.* For purposes of this Ordinance, the following words and phrases shall have the meaning ascribed to them:

- Bonfire - is any large outdoor fire that is used for warmth, recreational, social fellowship or ceremonial purposes fueled only with wood and not used for waste disposal purposes.
- Campfire - is any small outdoor fire, confined to a small area, not more than 16 square feet, that is used for warmth, recreational, social fellowship, or ceremonial purposes fueled only with wood and not used for waste disposal purposes.
- Contained Outdoor Fire - is any fire contained in an incinerator, fire place, or a fireproof container.
- Cooking fire - is any fire contained in a fireplace, grill, pit or other suitable container using wood, charcoal, gas (natural or propane) or other similar fuel, for the sole purpose of cooking, grilling, barbecuing or similar food preparation for human consumption.
- Garbage - is any animal and/or vegetable waste resulting from the handling, preparation, cooking and/or consumption of food.
- Outdoor Fire - is any fire set or maintained outside of a building, including contained and uncontained fires, cooking fires, campfires, and bonfires.
- Person - means any individual, partnership, corporation, association, institution, cooperative enterprise, governmental entity or agency, or any other legal entity, which is recognized by law. In any provision of this Ordinance

prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term person shall include the officers and directors of any corporation or other legal entity having officers and directors.

Township - is West Mead Township

Uncontained Outdoor Fire - is any fire except a "contained outdoor fire."

Section 4. Prohibited Activity.

A. No outdoor fire, except cooking fires, shall be set or maintained within twenty feet (20') of any property line and/or building.

B. No outdoor fire shall be set or maintained on any public property, except where a designated area has been set aside for this purpose and an appropriate container has been provided to contain such fire.

C. No outdoor fire shall be set or maintained that **may** endanger any building or property, **or that causes a nuisance or unreasonable annoyance to, or unreasonably interferes with the living conditions of occupants of an adjoining residence or business facility.**

D. None of the following shall be burned in an outdoor fire: garbage; household waste such as and including furniture, mattresses, carpet, appliances, tires or batteries; demolition waste such as and including shingles, siding, or insulation; solvents, paints or oils; materials or products of or containing rubber, plastics or Styrofoam; materials or products containing chemicals that produce noxious or hazardous gases, odors, smoke or particles; or materials that are not readily combustible.

E. No recyclable items shall be burned that are accepted for recycling within West Mead Township, as required under Department of Environmental Protection regulations. These items shall include, but are not limited to: plastic milk, soda, and laundry/soap type bottles; bi-metal and aluminum cans; clear and colored glass; newsprint; magazines; corrugated cardboard; and such other recyclable items that may be collected in the future.

F. With the exception of the Agricultural and Rural Residential Zoning Districts as established in accordance with the West Mead Township Zoning Ordinance, as same may be amended from time to time, no leaves shall be burned outdoors.

In the Agricultural and Rural Residential Zoning Districts, leaves may only be burned between the hours of 9 o'clock am and 6 o'clock pm, and may only be burned in accordance with the other applicable regulations of this ordinance.

Leaves shall not be burned in the right-of-way of public roadways, including the ditches alongside public roadways, or within twenty feet (20') of any property line and/or building. Leaves shall not be burned when damp or wet.

Brush including limbs, debris and attached leaves may be burned in all zoning districts when clearing or cleaning property in compliance with all other regulations under this ordinance.

G. No outdoor fire, excluding cooking fires, campfires and bonfires, shall be permitted to burn or smolder between the hours of 11:00 P.M. and 6:00 A.M. In the event there is good cause to have an outdoor fire at a time other than times permitted under this ordinance, a permit must be secured from the Township, and the Fire Company shall be notified of such fires.

H. No outdoor fire, except cooking fires and campfires, shall be permitted to burn whenever drought or extreme weather conditions exist, or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania, the County of Crawford, or the Township. Notice of such restriction shall be given by notice in a paper of general circulation and by posting a notice at the Township Office, or by giving such other notice, as the Township shall deem appropriate.

I. An outdoor fire shall be maintained, attended, and supervised by a responsible adult 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.

J. No person shall continue to maintain an outdoor fire, or fail to extinguish an outdoor fire, if ordered by a West Mead Township Police Officer or a West Mead Township Fire Department Chief, or the next Fire Department officer in command when the Chief is unavailable, due to unsafe conditions created by the fire, or due to the fire being maintained in violation of this Ordinance.

Section 5. *Exceptions.* This Ordinance does not prohibit or restrict:

A. a fire used in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation as long as the fire does not create a fire or health hazard, or

B. a fire set and supervised by fire department personnel for training purposes, or

C. a fire set and supervised by government officials for the purposes of abating a fire or health hazard.

Section 6. *Enforcement.*

A. The West Mead Township Police and the West Mead Township Fire Department Chiefs, or the next Fire Department officer in command when the Chief is unavailable, shall be responsible for and have authority to enforce the provisions of this ordinance, as well as any other Township representative specially designated by the Township Supervisors.

B. These enforcement officers shall have authority to investigate complaints of violations and to issue orders to extinguish outdoor fires that are in violation of the Ordinance, to impose conditions on maintenance of outdoor fires to prevent nuisances or violations of this Ordinance, or to take other appropriate corrective actions. Any order issued by an enforcement officer shall take effect immediately upon notice to the landowner or other person in charge of the property or outdoor fire.

C. In the event the Enforcement officer determines that a fire prohibited under the terms of this ordinance is an immediate danger to property, a public nuisance, or an immediate health hazard to occupants of an adjoining property, and the person responsible for the fire fails, refuses, or is unable to extinguish the fire when ordered to do so, the Enforcement Officer shall have the right and authority to take reasonable action to have the fire extinguished.

D. The West Mead Township Police Officers shall have authority to institute proceedings before a District Justice for a penalty as provided for in the Ordinance.

Section 7. *Penalties.*

A. Any person who violates this Ordinance ~~or who fails or refuses to comply with any order of the Township's designated enforcement officers~~ shall be guilty of a summary offense and upon conviction shall pay a fine of not less than Twenty-five Dollars (\$25.00) or more than Three Hundred Dollars (\$300.00) plus costs of prosecution, including court costs and reasonable attorney fees incurred by the Township in enforcement proceedings. In default of such payment, such person shall be imprisoned for a period of not to exceed ten (10) days.

B. Any person who fails or refuses to comply with an order of the Township's designated enforcement officer(s) shall be guilty of a summary offense and upon conviction shall pay a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) plus costs of prosecution, including court costs and reasonable attorney fees incurred by the Township in enforcement proceedings. In default of such payment, such person shall be imprisoned for a period of not to exceed twenty (20) days.

C. In addition, if a person has failed or refused to take reasonable action to comply with the Township's designated Enforcement Officer's order to extinguish a fire, and because the fire has caused an immediate danger to property, a public nuisance, or an immediate health hazard to occupants of an adjoining property, the Fire Department needed to be called to extinguish the fire, in addition to the fine imposed, the responsible person may be ordered to pay restitution to the responding fire department in an amount of up to five hundred dollars (\$500.00).

D. Each day or portion thereof that a violation is found to exist shall constitute a separate offense. Each section of the Ordinance being violated shall also constitute a separate offense.

E. In addition to seeking the penalty set forth above for violation of this Ordinance, the Township may seek any other remedy permitted by law.

Section 8. *Repealer.* All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

Section 9. *Severability.* Should any section, part or provision of this Ordinance be declared by appropriate authority to be unlawful or unconstitutional, all other terms, conditions, provisions and parts hereof, and of any Code of which this Ordinance may be or may be considered to be part, shall continue in full force and effect as if the provision declared to be unlawful or unconstitutional had been omitted as of the date of final enactment hereof.

Section 10. *Effective Date.* The provisions of this ordinance shall become effective in five day.

Enacted as an Ordinance of West Mead Township this ____ day of _____, 2016.

West Mead Township Board of Supervisors

Chairman

Vice Chairman

Supervisor

ATTEST:

Secretary