

ORDINANCE NO. 01-03

AN ORDINANCE OF HAMILTONBAN TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA, PROVIDING FOR AND REGULATING THE USE OF OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATION:

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Board of Supervisors of Hamiltonban Township, as follows:

SECTION I. TITLE: This ordinance shall be known as the Hamiltonban Township Burn Ordinance.

Section II. DEFINITIONS:

1. **CONTAINED FIRE:** Any fire contained in an incinerator, fireplace or other contained enclosure designed for outdoor cooking, or a fireproof container.
2. **CONTROLLED FIRE:** Any fire not included in the definition of "Contained Fire".
3. **FURNACE:** Any enclosed device specifically designed for burning any material for the production of heat.
4. **GARBAGE:** All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
5. **INCINERATORY/NON-COMBUSTIBLE CONTAINER:** Any device specifically designed for the destruction by burning of refuse, sewage sludge or any combustible material.
6. **OPEN FIRE:** A fire in which any material is burned in the open or in a receptacle other than a furnace or an incinerator.

7. **PERSON**: Any individual, partnership, association, corporation, department, bureau, agency or legal entity.
8. **REFUSE**: Garbage, rubbish and trade waste.
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10. **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.
11. **RUBBISH**: Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry, plastics, recyclable items and other similar items.
12. **SALVAGE OPERATIONS**: 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, shipping containers or drums.
13. **TRADE WASTE**: All solid or liquid material 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; provided that "Trade Waste" shall not include any coal refuse associated with mining or preparation of coal.

SECTION III. REGULATIONS:

1. All persons, prior to igniting any open burn, except a contained fire shall contact the Adams County Department of Emergency Services Communications Center at the non-emergency number, to register any and all planned burnings prior to commencement of such burning. This burning registration shall include structure(s) of any size, or the planned burning of any material outside of an approved container, by the initiator(s) thereof, and the initiator(s) shall notify the Communications Center, indicating the proposed burning site (address), size and type of burning, the responsible party's name and telephone number.

2. All fires shall be attended to at all times by a responsible adult with readily available means of extinguishing the fire.
3. Fire must be extinguished thoroughly, with no smoldering.
4. No burning is allowed during a Fire Ban Emergency, as proclaimed by the Adams County Fire Marshal, Adams County Emergency Management or Hamiltonban Township Board of Supervisors.
5. Whenever the Fire Chief or the Fire Company Line Officer who is in command of the scene finds that open burning is in violation of this ordinance the command officer may order the owner or operator to take corrective action in a manner satisfactory to the fire company, or the Fire Chief or the Fire Company Line Officer who is in command of the scene may order the owner or operator to allow access to the land by the fire Chief or his designee to take such action.
6. It shall be lawful to set a fire in conjunction with the production of agricultural commodities in their un-manufactured state on the premises of the farm operation.
7. It shall be lawful to set a fire for cooking food.
8. It shall be lawful to set a fire solely for recreational, and ceremonial purposes and in accordance with the township rules and regulations as set from time to time.
9. It shall be lawful to burn yard waste such as leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetable matter.
10. It shall be lawful to burn non-hazardous household waste items such as paper, cardboard, wood, etc. These items shall be burnt in and confined to a non-combustible container covered with a screen of one-half (1/2) inch or smaller mesh, or with other suitable non-combustible cover, and shall not be permitted closer than twenty-five (25) feet from any building.
11. It shall be unlawful to light, kindle, or maintain any fire, out of doors,

during the hours from sunset to sunrise, unless such fire is confined to a safe , non-combustible container, fireplace or other non-combustible receptacle or means of confinement, or unless it is maintained for the purposes of, warmth, cooking or a campfire, recreational and ceremonial purposes, and commonly accepted farming practices.

SECTION IV. UNLAWFUL SUBSTANCES:

1. Burning of construction debris, aerosol cans, by-products of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.
2. Nothing herein shall be construed to permit the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a “hazardous substance”; nor shall any fire be permitted to burn by any persons if such burning is in violation of the Air Pollution Control Act or other legislation by the Commonwealth of Pennsylvania or the United States of America or any of their legislative agencies.
3. Fires shall be used only to burn readily combustible materials.

SECTION V. FIRE BAN EMERGENCY:

The Board of Supervisors may declare a fire ban emergency in Hamiltonban Township during a period of drought or other periods of high fire risk to woodlands or property within Hamiltonban Township. Upon the Board of Supervisors declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the Board of Supervisors lifts the ban. The Township shall publish a notice of fire ban emergency at least once in a local newspaper of general circulation. In addition, the Township may issue news releases to all communication media, including radio, television and newspapers.

SECTION VI. ENFORCEMENT:

The Board of Supervisors shall appoint the Zoning Officer, who shall have the power to enforce the provisions of this Ordinance, or in the absence of the Zoning Officer, a Hamiltonban Police Officer.

SECTION VII. PENALTIES:

It shall be unlawful to burn, ignite, incinerate, maintain or otherwise permit the burning of any materials whatsoever without complying with the requirements of this Ordinance.

Any person(s) who shall violate any of the provisions of this Ordinance shall, upon conviction in a summary proceeding brought in the name of the Township, before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not more than \$600.00 and the costs of prosecution; and in default of payment, to imprisonment for a term of not to exceed ninety (90) days, provided that each day's violation of any of the provisions of this Ordinance shall constitute a separate offense.

SECTION VIII. ADDITIONAL COSTS:

1. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this Ordinance, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for the use of the following fire fighting equipment:

<u>DESCRIPTION</u>	<u>FEE PER HOUR</u>
A. Fire Engine, Class-A	\$100.00/hr – 1 st 4 hours \$ 50.00/hr after 1 st 4
B. Rescue/Squad, Med. To Heavy Duty	\$100.00/hr – 1 st 4 hours \$ 50.00/hr after 1 st 4
C. Aerial Apparatus	\$100.00/hr – 1 st 4 hours \$ 50.00/hr after 1 st 4
D. Tanker	\$100.00/hr – 1 st 4 hours \$ 50.00/hr after 1 st 4
E. Brush Unit/Mini Pumper/ Specialty Unit/C & C Unit	\$ 75.00/hr – 1 st 4 hours \$ 50.00/hr after 1 st 4
F. Air Cascade Unit	\$ 60.00/hr – 1 st 4 hours

\$ 30.00/hr after 1st 4

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| G. Quick Response or
Medical Assist Vehicle | \$ 50.00/hr – 1 st 4 hours
\$ 25.00/hr after 1 st 4 |
| H. Ambulance or Medic
Unit (BLS/ALS) (Disposable
supplies are billed in addition
to the hourly rate, (if a transport(s) is made, it is billed by the service.) | \$100.00/hr – 1 st 4 hours
\$ 50.00/hr after 1 st 4 |
| I. PA State Certified Hazardous
Material Response Team
(unless other rates are established under current contract/agreement) | \$200.00/hr – 1 st 4 hours
\$100.00/hr after 1 st 4 |
| J. Any Paid Agencies, (i.e.:
A.C. Dept. of Emerg. Svcs.) | \$ 50.00 every hr/person
\$1,500.00 max./24 hr.pd. |
| K. Air Cylinders-SBCA Refills
(at fixed facility) | \$ 5.00/cylinder (30min.)
\$ 10.00/cylinder (60min.) |
| L. Rescue Tools | |
| M. (Air Bags, Mechanically
Chisels, Hurst, Jaws, etc.) | \$ 50.00/hour/tool Operated Hammers, |
| N. Cellular Phone (billed @ actual cost) | Submit detailed bill. |
| O. Bill Consolidation Fee | \$200.00 |

All expendable items provided by those organizations, shall be invoiced at their actual replacement cost.

2. All money collected as additional cost shall be turned over to the appropriate Fire Company for services and equipment used. Within 30 days of the incident the fire companies involved in the incident shall turn over a statement of equipment used, as well as any other cost so that the bill can be submitted to the District Justice Office with the summery case for restitution. It shall be the responsibility of the fire company to submit the itemized statement to the township so that it can be considered by the District Justice. If the fire company fails to submit the bill to the township, it shall lose the right under this ordinance to recover such cost.

SECTION IX. REPEALER:

All Ordinances or parts of Ordinances, which are inconsistent herewith, are hereby repealed.

SECTION X. SEVERABILITY:

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION XI. MUNICIPAL LIABILITY:

The Board of Supervisors 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 issuance of any permit under the provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance or noncompliance with the terms and provisions hereof. The person, persons, company or companies responsible for any such fire and the permit holder shall bear sole liability for any damages caused as a result thereof.

ADOPTED by the Board of Supervisors of Hamiltonban Township,
Adams County, Pennsylvania, on the _____ day of
_____, 2002.

ATTEST:

BOARD OF SUPERVISORS
HAMILTONBAN TOWNSHIP

Secretary

Stephen W. Jacobs
Chairman