

**HEIDELBERG TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. - 197

AN ORDINANCE OF HEIDELBERG TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, AMENDING AND RESTATING ORDINANCE NO. 166 OF 2012 AND ESTABLISHING REGULATIONS REGARDING OPEN BURNING AND AGRICULTURAL BURNING, INCLUDING DEFINITIONS FOR "AIR BASIN", "AGRICULTURAL BURNING", "AGRICULTURAL COMMODITIES", "AUTHORITY HAVING JURISDICTION (AHJ)", "NONORGANIC MATERIAL", "OPEN BURNING", "ORGANIC MATERIAL", "ORGANIC YARD WASTE", "PERSON", "RECYCLABLE MATERIAL", AND "TOWNSHIP"; REQUIREMENTS FOR COMPLIANCE WITH STATE LAWS INSIDE AND OUTSIDE AIR BASINS; OPEN FIRES AND OUTDOOR FIRES; AGRICULTURAL BURNING; AND PENALTIES FOR VIOLATION OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Heidelberg Township, Berks County, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of the same as follows:

WHEREAS, Section 1601 of the Second-Class Township Code, 53 P.S. §66601, authorizes the Heidelberg Township Board of Supervisors to adopt, amend, repeal or revise existing Ordinances;

WHEREAS, Ordinance No. 166 of the Township governs and regulates open burning;

WHEREAS, the Township desires to repeal and replace the existing Ordinance No. 166 with this Ordinance for the purpose of recognizing additional burning privileges for agricultural operations and ensuring compliance with the Pennsylvania Air Pollution Control Act (APCA) and 25 Pa. Code § 129.14.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Heidelberg Township, Berks County, Pennsylvania, as follows:

SECTION 1. DEFINITIONS. For the purposes of this Ordinance, the following terms shall be defined as set forth below, unless a different meaning is plainly required by the context.

AIR BASIN - An area designated as an air basin by the Pennsylvania Department of Environmental Protection (DEP) pursuant to 25 Pa. Code § 129.14 and applicable regulations.

AGRICULTURAL BURNING - Burning of agricultural commodities in their unmanufactured state occurring on a property with a normal agricultural operation as defined in the Pennsylvania Right to Farm Act, also known as the Protection of Agricultural Operations from Nuisance Suits and Ordinances Act (June 10, 1982, P.L. 454, No. 133), (3 P.S. §§951-957), and as further defined under the Pennsylvania Air Pollution Control Act and 25 Pa. Code § 129.14(c)(4).

AGRICULTURAL COMMODITIES - Organic material and organic yard waste accumulated as part of farm maintenance, including field crops, fruits, vegetables, horticultural specialties, livestock products, timber, wood and other wood products derived from trees, and aquatic plants and animals and their by-products, as further enumerated under the Pennsylvania Air Pollution Control Act, Section 4.1(b). Agricultural Commodities does not include manufactured or processed materials, biosolids, or municipal solid waste.

AUTHORITY HAVING JURISDICTION (AHJ) - The Womelsdorf Fire Chief, Robesonia Fire Chief, police officer, or Code Enforcement Officer.

DEPARTMENT - The Pennsylvania Department of Environmental Protection (DEP).

NONORGANIC MATERIAL - Material derived or formed from inanimate objects, other than vegetables, such as tin cans, glass crockery, metals, plastic, and similar materials.

OPEN BURNING - Burning any material in the open atmosphere, including burning in fifty-five gallon drums, outdoor fireplaces, or other containers.

ORGANIC MATERIAL - Material derived from living organisms such as wood, paper, and yard scraps.

ORGANIC YARD WASTE - Leaves, bushes, thickets, hedge clippings, garden residue, grass clippings, trees, tree trimmings, chipped shrubbery, and other vegetable material. Organic yard waste does not include stones; rocks; construction, renovation, or demolition debris; broken concrete; bricks; stumps; landscape and railroad ties or logs; plastic; plastic bags; or municipal solid, residual, or hazardous waste.

PERSON - Any natural person, partnership, corporation, unincorporated association, limited partnership, trust, or any other entity.

RECYCLABLE MATERIAL - Any material that is required to be recycled in Heidelberg Township under the Pennsylvania Municipal Waste Planning, Recycling, and Waste Reduction Act (Act 101 of 1988).

TOWNSHIP - Heidelberg Township, Berks County, Pennsylvania.

SECTION 2. COMPLIANCE WITH STATE LAW. All Open Burning within the Township shall comply with the Pennsylvania Air Pollution Control Act and 25 Pa. Code § 129.14, in addition to the requirements of this Ordinance. Where any provision of this Ordinance conflicts with state law or regulation, the more restrictive provision shall control. Nothing in this Ordinance shall be construed to authorize any burning that is prohibited under state law or regulation.

(A) **Air Basins.** In accordance with 25 Pa. Code § 129.14(a), no Person may permit the Open Burning of any material within an Air Basin, regardless of any other provision of this Ordinance. If any portion of the Township is designated as or included within an Air Basin by the Department, this prohibition applies fully to that portion of the Township.

(B) **Areas Outside of Air Basins.** No Person may permit Open Burning in an area outside of an Air Basin in a manner that:

(1) Causes emissions that are visible, at any time, at the point such emissions pass outside the property of the Person on whose land the Open Burning is being conducted;

(2) Causes malodorous air contaminants from the Open Burning that are detectable outside the property of the Person on whose land the Open Burning is being conducted;

(3) Causes emissions that interfere with the reasonable enjoyment of life or property;

(4) Causes emissions that cause damage to vegetation or property; or

(5) Causes emissions that are or may be deleterious to human or animal health.

SECTION 3. OPEN FIRES AND OUTDOOR FIRES.

(A) **General Prohibition.** It shall be unlawful for any Person to Open Burn any material – including Nonorganic Material, Organic Material, Organic Yard Waste, Recyclable Material, scrap lumber, plywood, drywall, plastic products, insulation material, upholstered furniture, garbage, dead animals, human and animal excrement, human and animal hair, rubber products including tires, hydrocarbon products or flammable liquids, asphalt or tar shingles or roofing materials, bedding, foam, rubber, nylon, rayon, cotton, wool, polyester or other synthetic material, insulation from copper or other wiring, solid waste, and/or construction waste as defined by the Pennsylvania Solid Waste Management Act and 25 Pa. Code § 271.1 – at any time in any district within the Township, unless the burning is expressly permitted under this Ordinance and complies with state law.

(B) **Permitted Exceptions.** The prohibitions in Section 3(A) do not apply to the following, provided such burning is conducted in compliance with Section 2 of this Ordinance and 25 Pa. Code § 129.14:

(1) **Firefighting Training.** Any fire set for the purpose of instructing personnel in firefighting or training Persons in the use of portable fire extinguishers, when approved in writing by the Department pursuant to 25 Pa. Code § 129.14(c)(2).

(2) **Recreational or Ceremonial Fires.** Any campfire or bonfire set solely for recreational or ceremonial purposes, provided no unlawful materials are burned, pursuant to 25 Pa. Code § 129.14(c)(6).

(3) **Cooking Fires.** Any fire set solely for the purpose of cooking food, pursuant to 25 Pa. Code § 129.14(c)(7).

(4) **Disease or Pest Control.** Any fire set for the prevention and/or control of disease or pests, when approved in writing by the Department pursuant to 25 Pa. Code § 129.14(c)(3).

(5) **Hazard Abatement.** A fire set to prevent or abate a fire hazard, when approved by the Department and set by or under the supervision of a public officer, pursuant to 25 Pa. Code § 129.14(c)(1).

(6) **Agricultural Burning.** Agricultural Burning as set forth in Section 4 below, in accordance with 25 Pa. Code § 129.14(c)(4).

(C) **Suspension of Burning by AHJ.** The AHJ may order the immediate suspension or cessation of any Open Burning at any time when the following conditions exist:

(1) When smoke and/or ash emissions are or may be objectionable, offensive, or deleterious to human or animal health, or permeate or cross neighboring properties, and/or fall on buildings, vehicles, or vegetation;

(2) When fire or smoke may endanger any building or property, except where such building or property is used by a fire department for training purposes; or

(3) When extreme dry conditions or drought warrant a ban on all burning.

(D) **Air Pollution Episodes.** During any air pollution episode declared under 25 Pa. Code Chapter 137, all Open Burning within the Township shall cease as specified in that chapter, regardless of any permission otherwise granted under this Ordinance.

SECTION 4. AGRICULTURAL BURNING.

(A) **Eligibility.**

(1) Properties on which there is an agricultural operation that are ten (10) or more contiguous acres in area, or are less than ten (10) contiguous acres in area but with an anticipated yearly gross income of at least Ten Thousand Dollars (\$10,000) from the agricultural operation, are permitted to conduct Agricultural Burning of Agricultural Commodities, subject to the conditions of this Section and the requirements of 25 Pa. Code §129.14(c)(4) and the Pennsylvania Air Pollution Control Act, Section 4.1.

(2) No Nonorganic Material – including household refuse, construction materials, tires, plastics, or similar materials – is permitted to be burned under this Section.

(B) **Conditions for Agricultural Burning.** The following conditions apply to Agricultural Burning:

(1) Only Agricultural Commodities in their unmanufactured state may be burned, consistent with 25 Pa. Code § 129.14(c)(4).

(2) The Agricultural Commodities that are burned must originate from the property on which the burning is conducted. Agricultural Commodities may not be transported from another location, including from an Air Basin, for disposal by burning on the premises.

(3) Refuse – including garbage, trash, recyclables, plastics, building materials, tires, and other Nonorganic Materials – shall not be burned outdoors on the premises.

(4) Agricultural Burning shall be performed only during daylight hours.

(5) Fires for Agricultural Burning shall be at least 100 feet from any structure, property line, and combustible material.

(6) An adult 18 years of age or older shall be present on the property at all times during Agricultural Burning.

(7) A portable fire extinguisher with a minimum 4-A rating or a garden hose shall be readily available for immediate use during Agricultural Burning.

(8) The property owner shall contact the Berks County Department of Emergency Services prior to any Agricultural Burning, providing the property owner name(s), contact phone number, property address, and proposed date and time of burn.

(9) Agricultural Burning shall comply with all applicable visible emission, malodor, and nuisance standards set forth in Section 2(B) of this Ordinance and 25 Pa. Code § 129.14(b). Upon receipt of a complaint or a determination by the Department that an air pollution problem exists, the Department may order that the Open Burning cease.

SECTION 5. VIOLATIONS AND PENALTIES.

(A) Any Person violating any provision of this Ordinance or neglecting to comply with any order or notice issued pursuant hereto shall, upon conviction before any District Justice, be subject to the payment of a fine of not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00), and the payment of costs of prosecution for each offense, or shall be subject to imprisonment for a period not exceeding thirty (30) days. Each day's continuance of any violation of this Ordinance shall constitute a separate offense, punishable by a similar fine and imprisonment in default of payment thereof.

(B) Nothing in this Section limits the authority of the Department or any other state agency to enforce applicable state laws and regulations independently of this Ordinance.

SECTION 6. REPEAL OF ORDINANCES. Any Ordinance or part of Ordinances conflicting with the provisions of this Ordinance, including Ordinance No. 166 of 2012, are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

SECTION 7. SEVERABILITY. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in this Ordinance is, for any reason, declared to be illegal, unconstitutional, or invalid by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other remaining portion thereof. The Township Board of Supervisors hereby declares that it would have adopted this Ordinance and each part thereof irrespective of any portion declared illegal, unconstitutional, or invalid.

SECTION 8. EFFECTIVE DATE. This Ordinance shall become effective upon enactment.

DULY ENACTED AND ORDAINED this 20th day of May 2026.

HEIDELBERG TOWNSHIP
Berks County, Pennsylvania



~~(Vice)~~ Chairman

Attest:



Nicole Werner, Secretary

CERTIFICATE OF ENACTMENT

I, Nicole Werner, Secretary of Heidelberg Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 197 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Heidelberg Township and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on the 20th day of July, 2026.

[SEAL]



Nicole Werner, Secretary