

**LOWER FREDERICK TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2025-__

**AN ORDINANCE OF LOWER FREDERICK TOWNSHIP, MONTGOMERY COUNTY,
COMMONWEALTH OF PENNSYLVANIA, REGULATING OPEN BURNING, PROVIDING FOR
ENFORCEMENT AND PENALTIES, AND REPEALING INCONSISTENT ORDINANCES.**

NOW THEREFORE, be it, and it is hereby ORDAINED by the Board of Supervisors of the Township of Lower Frederick, Montgomery County, Commonwealth of Pennsylvania, and it is hereby ENACTED by authority of same as follows:

ARTICLE I. Chapter 50

Current Chapter 50, Burning, Open, of the Lower Frederick Township Code shall be amended to read as follows:

Chapter 50 Burning, Open

§ 50-1. Purpose

The purpose of this chapter is to regulate open burning in Lower Frederick Township to protect public health, safety, and welfare and to comply with applicable environmental standards. This chapter provides requirements for recreational fires and the burning of yard waste and prohibits the burning of hazardous or toxic materials.

§ 50-2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL BURNING – Burning occurring on a property with a normal agricultural operation as defined in the Right to Farm Act (3 P.S. §§ 951 through 957).

AUTHORITY HAVING JURISDICTION (AHJ) — Fire Marshal, Chief of Police, Police Officer, or officer of the Lower Frederick Township Volunteer Fire Department. The Township Chief of Police or his/her designee will be the prosecuting authority for any violation of this chapter.

APPROVED CONTAINER – A non-combustible container or enclosure engineered or designed for outdoor use such as a chiminea, outdoor fireplace, fire-pit or similar type container that can be purchased at local retailers. Any openings in the container must be covered with a wire mesh or other screening material that will prevent the passage of sparks and embers.

BURN BAN - A temporary prohibition on all or certain types of outdoor burning declared by the Township, County, State, or other authorized authorities due to conditions that pose an increased risk of fire, such as drought, high winds, low humidity, or poor air quality. A burn ban may restrict open burning, recreational fires, and/or use of specific devices, and shall remain in effect until formally lifted by the issuing authority.

CEREMONIAL BURNING – The burning of clean and dry wood or other approved combustible materials as part of a formal or traditional observance, ritual, or public event conducted for religious, cultural, or commemorative purposes. Such burning may include fires larger than those permitted for recreational burning but shall be allowed only with prior approval from the Township.

FLUE – Any duct, passage, stack, chimney, or conduit, attached to a building, permitting air contaminants to be emitted into the open air which would otherwise be emitted indoors.

OPEN BURNING – Ignition and combustion of any material in the open air, including in fifty-five-gallon drums, outdoor fireplaces, or other outdoor containers not connected to a flue.

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

PERSON — Any natural person, partnership, firm, association, or corporation.

RECREATIONAL BURNING – A small outdoor fire for cooking, warmth, or recreational purposes, using clean and dry natural wood or charcoal in a freestanding grill, fire pit/ring, outside stove, chimenea, or similar device constructed of metal, stone, natural stone, cinder block, and/or masonry.

SOLID WASTE - Any garbage, refuse, sludge, and other discarded material resulting from industrial, commercial, mining, agricultural operations, and from community activities. It includes: Garbage/trash, yard waste (in some cases), paper, plastics, treated or painted wood, construction/demolition debris, furniture, carpeting, appliances, electronics, and any material that emits toxic fumes when burned

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YARD WASTE – Organic material generated on the premises, such as leaves, brush, grass clippings, tree limbs (under six (6) inches in diameter), garden debris, and similar natural waste.

§ 50-3. Permitted Open Burning

A. Recreational Burning

Recreational burning is permitted under the following conditions:

1. Must be located at least fifteen (15) feet from any structure or property line.

2. Must be attended by a responsible adult at all times until fully extinguished.
3. Shall not exceed three (3) feet in diameter and two (2) feet in height.
4. Extinguishing tools (water hose, fire extinguisher, and/or shovel and water) must be immediately available.
5. Must not occur during any burn ban.
6. Must not create a nuisance, excessive smoke, or endanger life or property.
7. For lots in the R-4 zoning district, open burning is prohibited except small recreational burning. No setback from property lines is required but must be located at least twelve (12) feet from any structure.

B. Burning of Yard Waste

Burning of yard waste is permitted on the property where it was generated, subject to the following restrictions:

1. A burning permit must be applied for and issued prior to the burning occurring.
2. Burning is permitted on Saturday and Sunday, between dawn and dusk.
3. Fires must be located at least:
 - a) Fifty (50) feet from any building or structure
 - b) Fifteen (15) feet from any building or structure, if in approved containers.
 - c) Fifty (50) feet from any property line
4. Yard waste shall only be burned in small piles not exceeding four (4) feet in diameter and three (3) feet in height. Extinguishing tools (water hose, fire extinguisher, and/or shovel and water) must be located at each pile.
5. Fires must be attended by a responsible adult at all times until fully extinguished.
6. Resident shall contact Montgomery County Department of Public Safety non-emergency line to advise 911 dispatcher of open burn start time and call back to advise when open burn is done. Any resident contacting shall provide name, address, and phone number.
7. Use of accelerants (e.g., gasoline or lighter fluid) is prohibited.
8. Only dry yard waste can be burned. Wet materials that produce excessive smoke are not permitted.
9. Extinguishing tools (water hose, fire extinguisher, and/or shovel and water) must be immediately available.

10. Must not occur during any burn ban.

11. Must not create a nuisance, excessive smoke, or endanger life or property.

C. Ceremonial Burning

Ceremonial burning is permitted under the following conditions:

1. Must be located at least twenty-five (25) feet from any structure or property line.
2. Must be attended by a responsible adult at all times until fully extinguished.
3. Extinguishing tools (water hose, fire extinguisher, and/or shovel and water) must be immediately available.
4. Must not occur during any burn ban.
5. Must not create a nuisance, excessive smoke, or endanger life or property.
6. A burning permit must be applied for and issued prior to the burning occurring.

D. Other permitted burning

1. Any fire set for the purpose of training and instructing authorized personnel in firefighting, and/or for the purpose of training of persons in the use of portable fire extinguishers A permit is not required.

The following types of burning are permitted once a burning permit is obtained from the Township:

1. Any fire set for the prevention and/or control of wildfires, disease, or pests, such as rats, snakes, bees, etc.
2. Agricultural burning.

E. The AHJ may suspend and/or prohibit any permitted burning at any time when the following conditions exist:

1. When smoke and/or ash emission are or may be objectionable, offensive, or deleterious to human or animal health; permeate or crosses neighboring properties; and/or falls on buildings, vehicles, or vegetation.
2. When extreme dry conditions, drought, or high winds warrant a burn ban.

§ 50-4. Prohibited Burning

1. Solid Waste materials shall not be burned at any time. These materials include the following:
 - a) Household trash, garbage, or refuse of any kind.

- b) Treated or painted wood, composite wood products.
 - c) Construction debris, demolition materials, insulation, drywall, or carpeting.
 - d) Tires, rubber, plastics, foam, or synthetic materials.
 - e) Oil, grease, fuel, or any petroleum-based products.
 - f) Household items including but not limited to mattresses, furniture, appliances, or clothing.
 - g) Any substance releasing hazardous or toxic emissions when burned.
2. Additionally, **open burning of any material is prohibited:**
- a) During wind conditions exceeding ten (10) mph.
 - b) During drought or red flag conditions as declared by the National Weather Service or Township and/or County officials.

§ 50-5. Burning permitted during a burn ban.

- 1. Gas, Propane, or Charcoal Grills and Stoves with lids
 - a) Portable or built-in grills fueled by propane, natural gas, charcoal, or electric sources.
 - b) Must be used on a non-combustible surface, away from vegetation or flammable materials.
 - c) Must be supervised and used according to manufacturer specifications.
- 2. Gas Fire Tables and Patio Heaters
 - a) UL-listed outdoor propane fire pits or patio heaters with a shutoff valve.
 - b) Must be supervised and used according to manufacturer specifications.
- 3. Electric Fireplaces and Heaters
 - a) Safe for outdoor or indoor use when certified for such purposes.
 - b) Must be supervised and used according to manufacturer specifications.
- 4. Indoor Fireplaces or Wood Stoves
 - a) Indoor appliances properly vented and in compliance with building codes.

§ 50-6. Burning Permits

- A. Burning permits shall be issued by the Township and may be subject to additional conditions, including location inspection, material approval, and date limitations.
- B. The Township may deny, revoke, or suspend burning permits due to burn bans, hazardous conditions, and/or noncompliance with this chapter.
- C. The duration of a burning permit shall not exceed thirty (30) days.
- D. Burning permits are not required for recreational or ceremonial burning.

§ 50-7. Violations and penalties

- A. This chapter shall be enforced by the Township Fire Marshal, Chief of Police, Police Officer or officer of the Lower Frederick Township Volunteer Fire Department. Any authorized official

of the Township may order the immediate extinguishment of an open burning in violation of this chapter.

- B. Any person who violates or permits a violation of this chapter or a burning permit issued under this chapter shall, upon conviction in a summary proceeding brought before a District Justice or other court of competent jurisdiction and in accordance with the procedures set forth in the Pennsylvania Second Class Township Code (53 P.S. §65101 et seq.), be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000 per day during which such violation shall continue, plus all costs of prosecution. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

ARTICLE II. **Repealer**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ARTICLE III. **Severability**

If any section, paragraph, subsection, clause, or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

ARTICLE IV. **Effective Date**

This Ordinance shall become effective five (5) days after final enactment.

ENACTED and **ORDAINED** this _____ day of _____, 2025.

**LOWER FREDERICK TOWNSHIP
BOARD OF SUPERVISORS**

Noelle Halter, Chair

Marla Hexter, Vice Chair

Terry Bird

ATTEST:

Terry Sacks

Jason A. Wager, Manager

Charles W. Yeiser