

COPY

ORDINANCE NO. 2004-06

AN ORDINANCE OF THE TOWNSHIP
OF DOUGLASS, MONTGOMERY COUNTY,
PENNSYLVANIA, REGULATING OPEN
BURNING AND PROVIDING FOR
PENALTIES FOR VIOLATION

IT HEREBY IS ENACTED and ORDAINED by the Board of Supervisors
of Douglass Township, Montgomery County, Pennsylvania, as follows:

Section I. Short Title.

This Ordinance shall be known and may be cited as the "Douglass
Township Air Pollution Control Ordinance of 2004."

Section II. Policy.

WHEREAS, pollution of the air is detrimental to the health, comfort,
living conditions, welfare, and safety of the citizens of Douglass Township, Montgomery
County, it is declared to be the policy of the Township to safeguard the citizens from air
pollution. The burning of solid waste is considered disposal and is contrary to the Solid
Waste Management Act.

Section III. Definitions.

The following words, terms and phrases, when used in the Ordinance, unless the
context clearly indicates otherwise, shall have the meanings set forth below:

1. Board - Board of Supervisors of Douglass Township, Montgomery County
Pennsylvania.
2. Douglass Township Fire Marshal/Designee - Air Pollution Control Officer.
3. Solid Waste - Garbage, refuse and other discarded materials including solid

waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

4. Open Burning - Any fire wherein air contaminants, including smoke and/or odor, are emitted to the open air.

5. Air Curtain Destructor — A mechanical device which forcefully projects a curtain of air across a pit in which open burning is being conducted so that combustion efficiency is increased and smoke and other particulate matter are contained.

6. Smoke - Extremely small solid particles produced by incomplete combustion of organic substances and includes, but is not limited to, fly ash, cinders, tarry matter, unburned gases, soot or carbon and gaseous combustion products.

7. Odor - That property of a substance which affects the sense of smell.

8. Agricultural - The active use of land for growing and harvesting of crops, as food for humans or animals, and also including nursery, horticultural and forestry uses, and/or the raising, consumption and/or selling of livestock as a source of meat, poultry, dairy products, hides, or other animal products. At least fifty percent (50%) of a parcel, lot, or tract must be actively used as described in this definition to qualify as an agricultural use.

SECTION IV. Air Pollution Control Officer

1. The Air Pollution Control Officer shall be the Douglass Township Fire Marshall.

2. Duties: The Air Pollution Control Officer shall have the following powers and duties:

a. Enforce the provisions and the rules and regulations as set forth in this Ordinance, as well as incorporated therein, and institute prosecution where necessary or appropriate;

b. Receive and initiate complaints or violations of the regulations of this

Ordinance;

c. Enter and inspect any building, property, premise or place, in accordance with the provisions of the law, for the purpose of investigating a complaint or violation of this Ordinance;

d. Obtaining information, in accordance with the law, relevant to any matter relating to the enforcement of this Ordinance;

e. Provide notice of any violation of this Ordinance;

f. Report to the Board, when necessary, and file with the Board written reports of any violation of this Ordinance.

Section V. Regulations.

1. It shall be unlawful for any person or entity to burn solid waste in violation of any provision of the Solid Waste Management Act, specifically Section 6018.610 of Act 97, 35 P.S. §6018.610 as amended, or any rule or regulation promulgated by any Commonwealth agency pursuant thereto.

2. In addition to the specific exceptions as set forth with respect to burning under the Solid Waste Management Act and any regulation thereof, the following exceptions are recognized:

Exceptions:

a. Burning for the purpose of instructing personnel in fire fighting, when approved by the Air Pollution Control Officer;

b. Burning for the prevention and control of disease or pests, when approved by the Air Pollution Control Officer;

c. Any fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operations (UNDER 25 PA CODE 129.14); Subsection C-4.

d. Any fire set solely for recreational or ceremonial purposes;

e. Any fire set solely for cooking food;

f. The burning or clearing of twigs, brush and similar plant or agricultural materials as allowed under the Code of Regulations of the Department of Environmental Resources or other state or federal law;

g. A fire set for the purpose of burning, clearing and grubbing waste requires that an air curtain destructor must be used and must be approved by the Department of Environmental Resources Regional Air Quality Program Office;

h. No burning of any item that is recyclable in Douglass Township, including but not limited to any recyclable paper or leaf waste, as defined by the Municipal Waste Planning, Recycling and Waste Reduction Act (P.S. 4000.902), shall be permitted.

2. No person shall cause, suffer or permit any open burning operation whatsoever if said open burning operation is contrary to 129.14 Chapter 129 of Title 25, Rules and Regulations of the Department of Environmental Resources.

3. No person shall in any manner hinder, delay, obstruct, resist, prevent, or in any way interfere with the Air Pollution Control Officer or his assistants in the performance of their duty hereunder, or refuse such personnel, after proper identification, entrance at reasonable hours to any premises.

4. Any person or entity failing, neglecting or refusing to comply with a lawful abatement notice issued by the Air Pollution Control Officer of the Township shall be subject to the penalties as set forth in this Ordinance. Any person or entity receiving such abatement notice may, upon written request, obtain an extension of time to comply therewith by making application to the Air Pollution Control Officer of the Township initially, and upon denial of the same, to the Board.

Section VI. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Ordinance, upon conviction thereof in an action brought before a District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of

Criminal Procedure, shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1000.00) plus costs and, in default thereof, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Ordinance continues shall constitute a separate and distinct offense.

2. The Board may institute an action in equity for an injunction to restrain any violation of this Ordinance.

Section VII. Severability.

If any Section, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional, illegal, or otherwise Invalid by the judgment or decree of any court, that Invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases.

ENACTED and ADOPTED this 3 day of May, 2004,
by the Supervisors of Douglass Township, Montgomery County, Pennsylvania.

BOARD OF SUPERVISORS OF
DOUGLASS TOWNSHIP

BY: Mark Austerberry
Mark Austerberry

ATTEST: Georgeann L. Rohrbach
Georgeann L. Rohrbach, Manager

Lawrence Sager, Esquire
Solicitor

