

COPY

EAST PROSPECT BOROUGH
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-1

**AN ORDINANCE OF THE BOROUGH OF EAST PROSPECT,
YORK COUNTY, PENNSYLVANIA, DELETING AND
REPLACING BOROUGH ORDINANCE 96-5, REGULATING
OUTDOOR BURNING WITHIN THE BOROUGH OF EAST
PROSPECT IN ITS ENTIRETY**

WHEREAS, on April 2, 1996, the Borough Council of East Prospect Borough, York County, Pennsylvania, adopted Ordinance 96-5, regulating outdoor burning within the Borough, and

WHEREAS, over the passage of time and with development in the Borough, there is a need to update the regulations regarding open burning within the boundaries of the Borough; and

WHEREAS, the Borough Council has determined it to be in the best interests of the health, safety and welfare of Borough residents to update and replace Ordinance 96-5 with a new ordinance regulating open burning based on current conditions within the Borough of East Prospect, York County, Pennsylvania.

NOW, THEREFORE, BE IT SO ENACTED AND ORDAINED, by the Borough Council of East Prospect Borough, York County, Pennsylvania, and by and through the authority of the same, as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the "East Prospect Borough Open Burning Ordinance."

Section 2. Statutory Authority, Declaration of policy.

- A. The Borough Council of the Borough of East Prospect, under, and pursuant to the authority granted by the Borough Code, does hereby enact and ordain this ordinance.
- B. The Borough Council of the Borough of East Prospect has determined that air pollution from open fires may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of the Borough of East Prospect. It is hereby declared to be the policy of the Borough of East Prospect to safeguard the citizens of the Borough of East Prospect from such air pollution by regulating open burning.

Section 3. Definitions.

The following words, terms and phrases, when used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings ascribed to

them:

COMPOST

All animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

OPEN FIRE

A fire in which any material is burned outdoors in the open or in a receptacle.

PERSON

Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.

RECREATIONAL FIRE

A fire with the purpose of cooking food, recreation or leisure activity.

Section 4. Enforcement.

All police officers having jurisdiction in the Borough of East Prospect, code enforcement officer(s) or any other duly authorized agent(s) shall have the power and duty to enforce the provisions of this chapter

Section 5. Regulations.

- A. After the effective date of this Ordinance, no person may permit the open burning of any material except as follows:
 - (1) Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - (a) The prevention of a fire hazard, which cannot be abated by other means.
 - (b) The protection of public health.
 - (2) No hazardous or other objectionable condition will be created by any such open burning.
 - (3) Recreational fires for pleasure, religious, ceremonial, cooking, warmth or similar purposes which are in an outdoor fireplace, barbecue grill, barbecue pit, chimenea, or other container or fires ring that does not exceed three feet in diameter and is located at least 15 feet from any

building. Only clean-burning materials, such kindling, dry firewood or charcoal briquettes, may be burned in a recreational fire. The burning of garbage, refuse, plastic, rubber, paint, oil, construction materials, particle board, plywood, pressure-treated, painted or treated wood, wet leaves, clothing or other such materials that produce fumes or significant smoke in a recreational fire is prohibited. All recreational fires must be attended by an adult at all times and extinguished upon cessation of the recreational fire.

- B. Burn ban. The Fire Chief, or in his or her absence, the Mayor, or in his or her absence, the President of Borough Council, shall have the authority to declare a burn ban if conditions warrant. Such a ban shall be announced by notifying the media, informing the Fire Chief, Police Chief and placing notice of the ban on the Borough's website.

Section 6. Violations and penalties.

Any person who violates any provision of this chapter or any order of the Borough issued pursuant to this chapter commits a summary criminal offense and shall, upon conviction, be sentenced to pay a fine of not less than \$250 nor more than \$1,000 for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for not more than 90 days for each separate offense. Authorized enforcement agents of the Borough are hereby declared to be law enforcement officers authorized to issue or file citations for summary violations under this chapter, and to prosecute these offenses.

Section 7. Severability.

It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid. In such case, all provisions of this Ordinance that were not declared invalid shall continue to be separately and fully effective. The Borough Council hereby declares that it would have passed all other parts of this Ordinance, without including any part declared invalid, if it had advance knowledge that such part would be declared invalid.

Section 8. Repealer.

Ordinance 96-5, regarding "fires outside of burning containers," is hereby repealed in its entirety and all other Borough ordinances or parts thereof that are inconsistent or incompatible herewith are repealed to the extent of such inconsistency or incompatibility. This Repealer clause shall only repeal Borough ordinances or parts thereof that were adopted prior to this Ordinance and that are clearly in direct conflict with this Ordinance.

Section 9. Procedural Defects in Enactment.

Allegations that this Ordinance or any amendment was enacted in a procedurally defective manner shall be appealed as provided in Pennsylvania law.

Section 10. Effective Date.

This Ordinance shall become effective in 5 calendar days, as provided by law.

ENACTED AND ORDAINED by the Borough Council of East Prospect Borough, York County, Pennsylvania, in lawful session, duly assembled, this 3rd day of May 2023.

ATTEST:

EAST PROSPECT BOROUGH BOROUGH COUNCIL

Mindy K. Barshinger
Mindy K. Barshinger, Secretary

By: Donald E. Barshinger
Donald E. Barshinger, Council President

(SEAL)

Approved this 3rd day of May, 2023.

David A. Bubb
David A. Bubb, Mayor