

TOWNSHIP OF RICHMOND
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 112

AN ORDINANCE OF THE TOWNSHIP OF RICHMOND, BERKS 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 BY THE BOARD OF SUPERVISORS OF RICHMOND TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, and it is hereby enacted and ordained, as follows:

SECTION 1: TITLE - This ordinance shall be known as the Richmond Township Burning Ordinance.

SECTION 2: DEFINITIONS

1. BURNING PERMIT. A permit to kindle or maintain open fires or other fires. The permit shall be issued for the Board of Supervisors by the Township Code Enforcement Officer upon application thereof made to the Code Enforcement Officer. A Burning Permit is valid for one (1) day only. A fee for each Burning Permit, as established by the Board of Supervisors, shall be charged.

2. CLEARING AND GRUBBING WASTE. Trees, shrubs and other native vegetation which are cleared from the land. The term "clearing and grubbing waste" does not include building demolition waste.

3. CONTAINED FIRE. Any fire contained in an incinerator, fireplace or other contained enclosure designed for outdoor cooking, or a fireproof container.

4. CONTROLLED FIRE. Any fire not included in the definition of Contained Fire.

5. DOMESTIC REFUSE. Waste generated from a residential dwelling. The term "domestic refuse" does not include household hazardous waste, source separated waste from recyclables, appliances, carpets, demolition waste (insulation, shingles, plaster, siding, etc.), furniture, mattresses, box springs, paint, plastics, petroleum products, rubber products, solvents, tires, treated wood, wire, putrescible waste, construction debris, trade waste, rubbish, refuse, aerosol cans, by-products of manufacturing and processing operations and wastes from commercial operations or salvage operations.

6. FURNACE. Any enclosed device specifically designed for burning any material for the production of heat.
7. GARBAGE. All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
8. INCINERATOR. An enclosed mechanical combustion device that has as its primary purpose the burning and reduction of the volume of solid waste or solid waste-derived fuel. Crematoria facilities that burn any kind of biomedical, treated or untreated medical waste, human or animal, or other solid waste, in their incinerator are included in this definition.
9. OPEN FIRE. A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.
10. PERSON. Any individual, partnership, association, corporation, department, bureau, agency or legal entity.
11. PREMISES. A tract of land with or without a building.
12. RECREATIONAL OR CEREMONIAL BURNING. Open burning which occurs for pleasure, religious, ceremonial, cooking, warmth or other similar purposes, including, but not limited to, bonfires or campfires.
13. REFUSE. Garbage, rubbish or trade waste.
14. RESPONSIBLE PERSON. An individual who is not under the influence of drugs or alcohol or suffering from any other condition that hinders or impairs one's ability to properly control a fire.
15. 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.
16. 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.
17. SMOLDERING. Burning without a visible flame and often without smoke. "Smolder" shall have the same meaning as burning, and any smoldering shall be considered burning.

18. STRUCTURE. Any house, dwelling, garage, shed, shelter, or other building as that term is defined by the Zoning Ordinance of Richmond Township.

19. TOWNSHIP. The Township of Richmond, Berks County, Pennsylvania.

20. 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.

21. YARD WASTE. Leaves, grass clippings, garden residue, tree trimmings, branches, chipped shrubbery, other vegetative material, and organics occurring naturally within the premises.

SECTION 3: GENERAL LIMITATIONS ON BURNING

1. It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, or of whatever nature, without complying with this Ordinance.

2. A Burning Permit is required for all burning of substances not prohibited under this Ordinance to occur at any times other than those specified in this Ordinance. The Burning Permit is valid for one (1) day only. The cost of the permit fee shall be set by resolution of the Board of Supervisors.

3. Every contained fire or controlled burn shall be built in and confined to a non-combustible container covered with a screen of 1/2 inch or smaller mesh, or with other suitable non-combustible cover, no closer than 50 feet from a structure on an adjacent property.

4. The provisions of the most current edition of the International Fire Code, Section 307 Open Burning, are incorporated herein and must be complied with by any person conducting open burning. To the extent that those provisions conflict with any provision contained in this Ordinance or other approved regulations, the stricter provision shall apply.

5. All fires shall be attended to at all times by a responsible person with readily available means of extinguishing the fire.

6. Fire must be extinguished thoroughly with no smoldering.

7. No burning is allowed during a Fire Ban Emergency as proclaimed by Berks County Emergency Management or the Richmond Township Board of Supervisors. (See Section 6.)

8. Incinerators are prohibited except as follows: within the I-Industrial zoning district and on farms for the disposal of dead domestic animals produced on the same farm, to the extent permitted by Pennsylvania law under Title 3, Pa. C.S.A. Section 2351, et seq.

SECTION 4: EXCEPTIONS

1. The following are exceptions and are not prohibited and may be burned without a permit and at any time.

- (a) Fire set solely for recreational or ceremonial purposes, or used only for cooking;
- (b) Fire set to prevent or abate a fire hazard, when approved by the Pennsylvania Department of Environmental Protection and set by or under the supervision of the Code Enforcement Officer;
- (c) Fire set for the purpose of instructing personnel in fire fighting;
- (d) Fire set for the prevention and control of disease or pests;
- (e) Fire used as a management technique for scientific research, vegetation management or for preventing wildfires.
- (f) Burning within a residential fireplace or a fireplace in a commercial business, such as a restaurant or office, so long as the substances burned are not prohibited by Section 5 – Unlawful Substances, of this Ordinance.
- (g) Burning in any residential wood, coal or similar domestic fuel burning furnace within a residence or associated structure, the sole reason for which is to heat the residence, associated structures, or water and so long as the substances burned are not prohibited by Section 5 – Unlawful Substances, of this Ordinance.
- (h) Burning in any residential wood, coal or similar domestic fuel burning furnace outside of a residence in an outdoor boiler inspected and approved by the Township Uniform Construction Code Officer and so long as the following requirements are met:
 - (1) A permit shall be obtained from the Township before installation.
 - (2) All outdoor boilers must meet applicable regulations and recommendations of the EPA and DEP. All outdoor boilers shall meet emission certification requirements unless expressly exempted otherwise. The applicant shall have the burden of proving that the outdoor boiler they desire to install, operate and maintain meets all existing laws, regulations and certifications.

(3) All outdoor boilers shall be no closer than 50 feet from a structure on an adjacent property.

(4) All non-catalytic outdoor boilers must be certified not to exceed EPA particulate matter emission standards. All catalytic outdoor boilers must be certified not to exceed EPA particulate matter emission standards. If the EPA or other agency should promulgate stricter standards, the stricter standards shall apply.

(5) The outdoor boilers shall have a permanent chimney that must be at least two (2) feet higher than the roof peak of any residence within fifty (50) feet that is not served by the furnace.

(6) Outdoor boilers may only burn fuels for which the same were designed to burn and which are approved by the manufacturer.

(7) It is the responsibility of the owner to ensure that no live coals or embers are present in any ashes or residue in such a manner as to constitute a fire hazard.

(8) No outdoor boilers shall be altered or modified such that the applicable certification emission tests would be invalidated. Any anti-pollution device installed by the manufacturer, or required by this Ordinance or otherwise, shall not be disconnected or rendered inoperative. Operation of the outdoor boiler shall be in accordance with the manufacturer's written instructions. This shall include, if applicable, periodic inspection and replacement of catalytic combustors.

(9) For all outdoor boilers, a chimneystack greater than fifteen (15) feet in height must be secured against high winds, and be constructed, installed and maintained in such a manner that it does not constitute a safety hazard. All chimneystacks shall be constructed in accordance with all rules and regulations of the Township and Commonwealth of Pennsylvania, and shall be constructed in accordance with the manufacturer's instructions.

(10) The outdoor boilers shall have a manufacturers' tag that signifies that it meets the EPA's standards for Phase 1 air emission levels of 0.60 pounds of fine particulates per million BTU heat input and qualifies for the EPA's voluntary program.

2. The following are exceptions and are not prohibited and may be burned without a permit, but only from sunrise to sunset.

(a) Fire used for the burning of waste generated by clearing and grubbing prior to construction, as long as ash, sparks, or embers do not cross onto other properties;

(b) Fire set in conjunction with the production of agricultural commodities in their un-manufactured state on the same premises as the farm operation;

(c) A fire set for the purpose of burning that amount of domestic refuse generated from one dwelling, when the fire is on the premises of a structure occupied solely as a dwelling by two families or less and when the refuse results from the normal occupancy of said structure.

(d) A fire set for the purpose of burning yard waste generated from the premises of a structure occupied solely as a dwelling by two families or less, when the fire is on the premises of said structure.

(e) Prescribed controlled fire for the conservation and management of unique and natural areas.

SECTION 5: UNLAWFUL SUBSTANCES

1. Burning of construction debris, trade waste, rubbish, refuse, aerosol cans, by-products of manufacturing and processing operations and wastes from commercial operations or salvage operations, household hazardous waste, source separated waste from recyclables, appliances, carpets, demolition waste (insulation, shingles, plaster, siding, etc.), furniture, mattresses box springs, paint, plastics, petroleum products, railroad ties, rubber products, solvents, tires, treated wood, wire, and putrescible waste is strictly prohibited.

2. Nothing herein shall be construed to permit or encourage 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 person 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 6: FIRE BAN EMERGENCY - The Board of Supervisors may declare a fire ban emergency in Richmond Township with or without consultation with the fire chiefs of the volunteer fire companies operating within the Township during period of drought, or other periods of high fire risk to woodlands or property within Richmond Township.

Upon the Board of Supervisors declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors.

The Township shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation, and post a notice of the fire ban emergency prominently at the

Richmond Township building. In addition, the Township may issue news releases to all communication media, including radio, television and newspapers.

SECTION 7: ENFORCEMENT - The Richmond Township Code Enforcement Officer shall have the power to enforce the provisions of this ordinance, or in the absence of the Code Enforcement Officer, a Fleetwood Borough Police Officer, or such other police officer of a police department under contract with Richmond Township.

SECTION 8: 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 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 magisterial 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 \$300.00, and the costs of prosecution, and in default of payment, to imprisonment for a term not to exceed 90 days, provided that each day's violation of any of the provisions of this Ordinance shall constitute a separate offense.

No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.

SECTION 9: 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 by the Township and paid over to the responding fire company for use of the following fire fighting equipment:

- (a) Pumpers and tankers;
- (b) Brush trucks or vehicles. Brush trucks or vehicles are all equipped for off-road or wooded area use with a water tank of at least one hundred (100) gallons capacity and an appropriate size pump.
- (c) Chain saws.
- (d) Any other apparatus or equipment necessary to extinguish the fire.

2. Additional labor charges shall be assessed under this Ordinance based upon an hourly rate for all firefighters, paid or unpaid, engaged in the fire fighting activities.

3. The Board of Supervisors shall determine by resolution a reasonable schedule of costs based upon mileage, operating costs and fire fighting equipment and man hours. These charges shall be in addition to and not in lieu of any penalties provided elsewhere in this Ordinance.

SECTION 10: REPEALER - All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

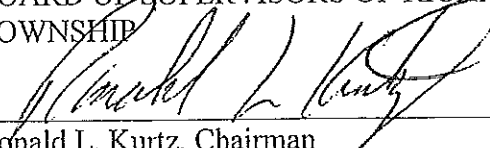
SECTION 11: SEVERABILITY - If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared 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 12: MUNICIPAL LIABILITY - The Board of Supervisors, and its agents, officials, representatives, and authorized firefighters 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.

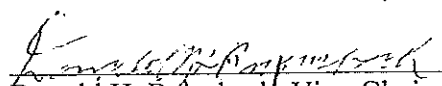
SECTION 13: EFFECTIVE DATE - This ordinance shall become effective five (5) days after enactment.

DULY ENACTED and ORDAINED by the Board of Supervisors of Richmond Township, Berks County, Pennsylvania, this 10th day of May, 2010, in lawful session duly assembled.

BOARD OF SUPERVISORS OF RICHMOND TOWNSHIP




Ronald L. Kurtz, Chairman

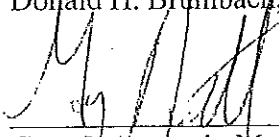


Donald H. Brumbach, Vice-Chairman

Attest:



Norann L. Warmkessel, Secretary



Gary J. Angstadt, Member

RICHMOND TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

RESOLUTION # 12-7.010

RESOLUTION OF RICHMOND TOWNSHIP BOARD OF SUPERVISORS TO ESTABLISH BURNING PERMIT FEES

WHEREAS, the Second Class Township Code, 53 P.S. Section 66506, charges supervisors with the governance of the township necessary for the proper maintenance, care and control of the township and the maintenance of peace, good government, health and welfare of the township and its citizens, trade, commerce and manufacturers; and

WHEREAS, pursuant to the Richmond Township Burning Ordinance, Sections 2 and 3, the Board of Supervisors shall establish fees for Burning Permits from time to time; and

WHEREAS, the Board of Supervisors desires to establish the Burning Permit Fee for a one-day burn in the amount of ten and 00/100 Dollars (\$ 10.00) and the Burning Permit Fee for an outdoor furnace or other similar outdoor domestic fire burning furnace in the amount of seventy-five and 00/100 Dollars (\$ 75.00); and

BE IT THEREFORE RESOLVED, pursuant to the Second Class Township Code, 53 P.S. Section 66506 and the Richmond Township Burning Ordinance, that the Richmond Township Board of Supervisors hereby establishes the Burning Permit Fee for a one-day burn in the amount of ten and 00/100 Dollars (\$ 10.00) and the Burning Permit Fee for an outdoor furnace or other similar outdoor domestic fire burning furnace in the amount of seventy-five and 00/100 Dollars (\$ 75.00).

RESOLVED, by the Board of Supervisors of Richmond Township, Berks County, Pennsylvania this 10th day of May, 2010.

BOARD OF SUPERVISORS OF RICHMOND TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

Chairman

Vice Chairman

Member

Attest:

Maureen O. Kunkel
Secretary