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ORDINANCE NO. 2009 - 1

AN ORDINANCE OF THE TOWNSHIP OF ALBANY,
BERKS COUNTY, PENNSYLVANIA, RESTRICTING FIRES AND BURNING
BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS,
EXCEPTIONS AND PRESCRIBING PENALTIES FOR VIOLATION

WHEREAS, the nature of residential trash has changed over the past fifty (50) years; and,

WHEREAS, in the past, residential waste consisted mostly of paper and glass; and,

WHEREAS, today, metal cans, plastic packaging, plastic products, and other synthetic material make up a large portion of society's waste; and,

WHEREAS, when burned, these items can emit toxic pollutants and contaminated soot particles into the air; and,

WHEREAS, the problem caused by these pollutants and contaminates is compounded by the density of houses in the village centers of Albany Township, Berks County, Pennsylvania.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors, of the Township of Albany, situate in Berks County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION I.

As used in this Ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

BOARD - The Board of Supervisors of the Township of Albany, Berks County, Pennsylvania.

OUTDOOR BURN RESTRICTION AREA - Kempton Village
Albany Street (all blocks)
Kistler Valley Road 9700 - 9900 blocks.
Route 737 3100 - 3400 blocks.
Second Street (all blocks)

Stony Run Village
Route 737 2200-2500 blocks
Red Road 9800 block
Scout Road 000 block
Turkey Road 200 block
Wessnersville Road 000 block

**OUTDOOR WOOD-
FIRED FURNACE -**

An enclosed device specifically designed for burning wood for the productions of heat. Also known as "boilers", "stoves" and "hydronic heaters".

GARBAGE -

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

CONTAINED FIRE-

A fire contained in an incinerator, a fireplace used for outdoor cooking or in a fireproof container, commonly known as a "burn barrel. This term shall not include the use of a charcoal grill for the occasional preparation of food for a single family unit.

OPEN FIRE -

A fire in which any material is burned in the open.

FIRE-

Any fire set or maintained outside of a building.

PERSON -

Any individual, partnership, association corporation, department, bureau, agency or other legal entity.

TOWNSHIP -

Albany Township, Berks County, Pennsylvania.

SECTION II. REGULATIONS.

A. Within the outdoor burn restriction area, no person shall:

1. Ignite, feed, cause, suffer, allow, or permit the maintenance of a fire on any property under his or her control, outside of any building; or,
2. Haul any material into the Township from outside the Township for the purposes of burning in accordance with this Ordinance.

B. Within all other areas of the Township, no person shall:

1. Ignite, feed, cause, suffer, allow, or permit the maintenance of a fire on any property under his or her control, outside of any building which smolders or creates smoke which becomes a nuisance to adjoining landowners.

2. Burn at such times and under such weather conditions which annoys and inconveniences the neighbors.

SECTION III. EXCEPTIONS.

The regulations set forth in Section II shall be subject to the following exceptions:

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; or,

B. The protection of public health.

2. Outdoor wood-fired furnaces may be installed and used provided they meet the following minimum criteria:

A. The property owner first obtains a zoning permit for the outdoor wood-fired furnace as an accessory structure.

B. The furnace model installed must be tested by and meet the criteria set by EPA Outdoor Wood - fired Hydronic Heater Program Phase 1, and shall bear an orange tag documenting that the model produces no more than 0.60 pounds of particulate pollution per million BTU heat input.

C. The furnace chimney shall extend at least two (2) feet above the peak of the residence for which it serves if neighboring residence not served by the furnace are located within three hundred (300) feet, or the chimney shall extend at least two (2) feet above the peak of any residence not served by the furnace within one hundred (100) feet, whichever is greater.

E. The furnace chimney shall extend at least two (2) feet above the peak of any residence located within three hundred (300) feet of the proposed outdoor wood-fired furnace.

- F. The outdoor wood-fired furnace must meet all installation, operational and maintenance requirements and recommendations of its manufacturer.
- 3. This Ordinance shall not restrict properly contained and maintained traditional camp fires.
- 4. This Ordinance shall not restrict bonfires outside the outdoor burn restriction area.
- 5. This Ordinance shall not restrict the use of charcoal grills for the occasional preparation of food for a single family unit.

SECTION IV. ENFORCEMENT.

The Board of Supervisors of Albany Township shall have the power to enforce the provisions of this Ordinance.

SECTION V. PENALTIES.

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00). The Board of Supervisors may, in their discretion, charge any person found to violate this ordinance for the cost of deploying fire equipment and for the use of supplies in addition to the fine set forth in this Section.

SECTION VI. REPEALER.

All ordinances or parts or the ordinance which are inconsistent herewith are hereby repealed.

SECTION VII. 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 part of this ordinance. It is hereby declared as the intent of the

Township of Albany that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION VIII.

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

ORDAINED AND ENACTED as an Ordinance by the Board of Supervisors of the Township of Albany, Berks County, Pennsylvania in lawful session duly assembled this 6th day of April, 2009.

Attest:

**BOARD OF SUPERVISORS OF THE
TOWNSHIP OF ALBANY, BERKS
COUNTY, PENNSYLVANIA**

Monica Rabert
Monica Rabert, Secretary

Lawrence A. Shrawder, Chair
Lawrence A. Shrawder, Chair

Donald Meyers
Donald Meyers, Supervisor

Charles E. Volk
Charles E. Volk, Supervisor