
ORDINANCE NO. 214

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
LONGSWAMP TOWNSHIP, BERKS COUNTY, PENNSYLVANIA,
REGULATING THE OPEN BURNING WITHIN THE TOWNSHIP,
PROVIDING THE ISSUANCE OF LICENSES UNDER PRESCRIBED
CONDITIONS, PRESCRIBING PENALTIES FOR VIOLATORS AND
REPEALING PREVIOUS ORDINANCES.**

WHEREAS, the Board of Supervisors of Longswamp Township have determined that the open burning and air pollution may be detrimental to the health, safety and welfare of the citizens of Longswamp Township and at times and places an unnecessary burden and risk upon the Township's volunteer fire services personnel and are desirous of protecting its citizens and volunteer personnel from unrestricted open burning and air pollution; and

WHEREAS, after careful review, the Board of Supervisors of Longswamp Township are desirous of establishing future regulations to protect its citizenry and volunteer personnel from potential dangers and damages as a result of open burning; and

NOW THEREFORE, the Board of Supervisors of Longswamp Township, Berks County, hereby ordain as follows:

Section 1. This Ordinance shall be known as the Longswamp Township Burning Ordinance.

Section 2. The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Approved container. A container used for the purpose of open burning consisting of a metal barrel with a 55-gallon capacity or less which meets the specifications attached hereto, made part hereof and marked as Exhibit "A" or similar approved container.

Bonfire. A large fire built outside a containment structure upon the ground for recreational or ceremonial purposes limited to a size of generally no greater than five (5) feet long, five (5) feet wide and five (5) feet in height.

Burn Container Cover. A metal screen with spaces not more than one-quarter square inch apart that covers the entire open area above the approved container and meets the specifications attached hereto as Exhibit "A". The screen shall be maintained in good order so as to prevent larger particles from escaping from the approved container during operation.

Burning. The act of consuming by fire, including but not limited to, flaming, charring, scorching or blazing. As used in this Ordinance, the term "smoldering" shall have the same meaning as burning, and any smoldering shall be considered burning.

Campfire. A small wood fire generally built in an iron ring or similar device outside of a structure for cooking or to create warmth generally limited to a size not exceeding a fuel supply of greater than three (3) feet in diameter and two (2) feet in height.

Clearing and Grubbing Waste. Trees, shrubs and other native vegetation which are cleared from land. The term "clearing and grubbing waste" does not include demolition waste or dirt-laid in roots.

Domestic Refuse. Waste generated from a dwelling occupied by two families or less. 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 or putrescible waste.

Code Enforcement Officer. The designated Code Enforcement Officer of this Ordinance is herein referred to as Code Official and is so designated as such by the Township.

Fire. Any fire set or maintained outside of a building.

Household Hazardous Waste. Waste considered hazardous within the meaning of the Solid Waste Management act, 35 P.S. §6018.101 *et seq.*, except that it is produced in lesser quantities than that regulated under the Solid Waste Management Act, or is generated by persons not considered hazardous waste generators within the meaning of the Solid Waste Management Act.

Open Burning. A fire, not directed through a flue, which emits air containments directly into the outdoor atmosphere.

Person. Any individual, partnership, corporation, association, institution or cooperative enterprise. Under any provision of this Ordinance prescribing a fine, imprisonment and/or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

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.

Source Separated Recyclable Materials. Materials that are separated from municipal waste at the point of origin for the purpose of recycling.

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

Township. The Township of Longswamp, Berks County, Pennsylvania.

Yard Waste. Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, other vegetative material.

Section 3. No person shall conduct or perform any open burning, ignite or feed any open fire, or aid and abet, allow, permit, maintain or cause any open burning or open fire within the Township unless and in accordance with the provisions of this Ordinance.

Section 4. Open burning shall be permitted of the following:

- A. A fire to prevent or abate a fire hazard when in accordance with Pennsylvania Department of Environmental Protection (“DEP”) Regulations, with prior notification to the Township Code Enforcement Officer and the Chief of the Fire Company of the district in which the burn is to be conducted.
- B. A fire to instruct personnel in firefighting, when in accordance with the DEP regulations which is under the direct supervision of the Chief of the Fire Company or his/her designee.

- C. A fire to prevent and/or control disease or pests when in accordance with DEP regulations, with prior notification to the Township Code Enforcement Officer and the Chief of the Fire Company of the district in which the burn is to be conducted.
- D. A fire, other than a campfire, solely to cook or prepare food.

RESIDENTIAL APPLICATIONS

The following sections shall apply to Residential fires, but shall not be limited to residential applications but shall also apply to Commercial enterprises where applicable.

Section 5. Open Burning shall be permitted of the following pursuant to the standards included below:

A. Domestic refuse generated from one (1) dwelling, when the fire is on the premises of a structure solely occupied as a dwelling by a single family or less and then the refuse results from the normal occupancy of said structure provided:

- 1. The open burning is conducted in an approved container;
- 2. The approved container conforming with the Township’s requirements is placed a minimum of fifty (50) feet from any property line or structure;
- 3. The open burning is attended to at all times;
- 4. The open burning does not take place either before the sunrise or after the sunset;
- 5. The open burning is completely extinguished, including smoldering, by sunset;
- 6. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
- 7. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

B. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of a farm operation pursuant to the standards below:

- 1. The open burning is attended to at all times;
- 2. The open burning does not take place either before sunrise or after sunset;
- 3. The open burning is completely extinguished,

including smoldering, by sunset;

4. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
5. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

C. A fire set for purposes of burning, clearing and grubbing waste provided:

1. The person conducting the open burning must notify County Communications Center or the appropriate agency two (2) hours in advance of the open burning;
2. The open burning is at least fifty (50) feet from an structure or property line;
3. The open burning is attended to at all times;
4. The open burning does not take place either before sunrise or after sunset;
5. The open burning is completely extinguished, including smoldering, by sunset;
6. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
7. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

D. Yard waste generated from the premises of the structure occupied solely as a dwelling by a single family or less, where the fire is on the premises of the said structure provided:

1. The yard waste being burned is dry material and occupies a space that is not more than five (5) feet long, by five (5) feet wide, by five (5) feet in height;
2. The person conducting the open burning must notify the County Communications Center or the appropriate agency two (2) hours in advance of the open burning;
3. The open burning is at least fifty (50) feet from any structure or property line;

4. The open burning is to be attended at all times;
5. The open burning does not take place either before sunrise or after sunset;
6. The open burning is completely extinguished, including smoldering, by sunset;
7. Precautions are taken to regulate, control and extinguish the open burning through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the open burning for immediate utilization; and
8. The open burning is not conducted on Sunday or any holiday recognized by the Township at its annual reorganization meeting.

E. A fire set solely for ceremonial or recreational purposes provided the following conditions are met:

BONFIRES:

1. A written application is submitted at least ten (10) days in advance of the proposed bonfire to the Township accompanied by a site plan of the property depicting all structures on the premises and the location of the proposed bonfire;
2. A permit is issued by the Code Enforcement Officer upon payment of the requisite application fee established by the Board of Supervisors of the Township;
3. The bonfire shall be at least fifty (50) feet from any property line or structure;
4. The bonfire shall not be placed under any overhead wires, trees or similar vegetation, and all brush, leaves, branches or other combustible materials shall be cleared within twenty-five (25) feet of the diameter of the bonfire;
5. The person conducting the bonfire must notify the County Communications Center or appropriate agency two (2) hours in advance of the bonfire;
6. The bonfire is attended at all times;
7. The bonfire is completely extinguished, including smoldering, before it is left unattended; and
8. Precautions are taken to regulate, control and extinguish the bonfire through the use of fire extinguishers, water hoses, dirt, sand or other fire extinguishing equipment which shall be readily available at the site of the bonfire for immediate utilization.

Section 6. Notwithstanding anything in this Ordinance, no open burning is permitted of any materials generated by a commercial, industrial or other similar non-residential use, including but not limited to, any materials from the salvaging, construction and/or demolition of any structure unless said burning is undertaken in compliance with a permit as required in Section 9 of this Ordinance.

Section 7. The following additional standards apply to all open burning:

- A. All open burning shall be attended by a person eighteen (18) years of age or older.
- B. No open burning shall produce malodorous fumes detectible beyond the property line which adversely affects the reasonable health, safety, use, occupancy and/or welfare of others.
- C. There shall be no open burning of any toxic or household hazardous waste, including but not limited to, tires, plastics, petroleum-based products, paint, batteries or furniture.
- D. All items burned shall be readily combustible, and the application of any accelerant used to ignite the fire shall be done in accordance with the recommendations of its manufacturer for safe and proper use.
- E. The use of gasoline, motor oil or other similar petroleum-based products, as accelerants, for a fire are prohibited.
- F. 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 provisions contained in this Ordinance or other approved regulations, the stricter provision shall apply.
- G. No open burning shall be permitted within any street right-of-way, gutter, or swale except for open burning pursuant to paragraph 4(A), (B) or (C).

Section 8. If because of weather, atmospheric or other conditions, any open burning would be in the judgment of the Board of Supervisors of the Township to constitute a general danger or threat to property or persons in the Township, the Board of Supervisors of the Township may prohibit any open burning until such danger, in their opinion is no longer present. The Township shall notify the public of the prohibition on open burning through the newspapers, posting at the Township Municipal Building and at the local fire companies, and/or through the use of other publications.

A ban on open burning may also be declared by the Township Supervisors, the County of Berks, the Commonwealth of Pennsylvania and/or the United States Government. To the extent that such a fire ban emergency is declared by these entities, it shall supercede the provisions of this Ordinance.

COMMERCIAL APPLICATIONS

The following sections shall apply to Commercial fires, but shall not be limited to residential applications but shall also apply to Residential applications where appropriate.

Section 9. Permit Required. Open burning shall be allowed after obtaining a permit or other proper authorization from the Code Official or other designated authority for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, providing heat for out workers and a bonfire.

A. Application. An application for an open burning permit shall be submitted in writing at least one (1) week before the applicant desires to commence burning and shall be in such form and contain such information as may be required by the Chief of the Fire Department. Such application shall contain, at a minimum, information regarding the purpose of the proposed burning, the nature and quantities of material to be burned, the date when such burning will take place and the location of the burning site. The application shall be accompanied by any permit fee established by ordinance or resolution of the Township. The Code Enforcement Officer shall issue or deny the application for a permit in accordance with the standards and criteria of this Part.

B. Authorization. Open burning shall be permitted with prior notification to the Code Official and upon receipt of written permission from the Chief of the Fire Department, provided that any conditions specified in the permission are followed for:

1. Disposal of hazardous or toxic material where DEP determines that there is no practical alternative method of disposal.

2. Instruction in methods of fire fighting or for research in control of fires, in emergency or other extraordinary circumstances for any purpose determined to be necessary by the DEP.

3. Disposal of landscape waste, except residential and agricultural waste.

4. Recognized agricultural or horticultural management purposes to maintain or increase the quantity or quality of agricultural or horticultural production.

Where the jurisdictional DEP written permission is not applicable, the Code Official shall give written permission provided that approved fire safety requirements and emission standards will be met.

Section 10. Construction Site Burning Permits. Notwithstanding the provisions of Section 6, nonhazardous waste at construction sites may be disposed of by burning in accordance with the provisions herein. The contractor shall obtain a permit for such burning from the Township at least forty eight (48) hours prior to intended burning and shall notify the Township Fire Department of his/her permit application. All burning authorized by such permit shall be performed at the construction site, be commenced after 7:00 a.m. and be extinguished by 3:00 p.m. Burning shall not be permitted under wind conditions which might result in spreading of fire. Permit holders shall notify the Township of the burning and shall keep the permit at the location of the burning and present the permit upon request of the Code Official, any law enforcement or any member of the Fire Department. The permit holder shall extinguish the burning whenever requested to do so by the Code Official, any law enforcement officer or any member of the Fire Department.

UNIFORMLY APPLICABLE ENFORCEMENT PROCEDURES

Section 11. Enforcement. The Code Official and any Township police officer shall have the power to enforce any provision of this Part. The Township

specifically authorizes the Code Official to issue citations to enforce this Ordinance.

Section 12. Penalties and Remedies.

- A. Any person who violates any provisions of this Ordinance shall, upon conviction thereof by summary proceedings, be sentenced to pay all fines as provided by the Township's Civil/Criminal Enforcement Ordinance.
- B. No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.

Section 13. All other sections, parts and provisions of this Ordinance shall remain in full force and effect as previously enacted and amended.

Section 14. In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of the Township that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 15. This Ordinance shall take effect and be in force from and after its enactment as provided by law.

DULY ORDAINED AND ENACTED this _____ day of _____, 2004, by the Board of Supervisors of the Township of Longswamp, Berks County, Pennsylvania, in lawful session duly assembled and shall be effective five days hereof.

BOARD OF SUPERVISORS OF LONGSWAMP
TOWNSHIP, BERKS COUNTY, PA

Donald C. Siegfried, Chairman

Bruce E. Hall, Supervisor

Troy T. Fairchild, Supervisor

Attest:

Township Secretary

