

SOUTH MIDDLETON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 08-09

AN ORDINANCE OF THE SOUTH MIDDLETON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA
REGULATING AND LIMITING OUTDOOR FIRES,
OUTDOOR FURNACES, AND BURINING
WITHIN SOUTH MIDDLETON TOWNSHIP AND
PRESCRIBING PENALTIES FOR VIOLATION THEREOF

BE IT ORDAINED by the Board of Supervisors of South Middleton Township, Cumberland County, Pennsylvania, as follows:

SECTION 1 – OPEN BURNING AND OUTDOOR BURNING PROHIBITION

It shall be and is hereby declared to be unlawful for any person or entity to burn or permit to be burned any substances or maintain or permit to be maintained any fire out-of-doors on any tract of land within South Middleton Township except for the following:

- a. Outdoor fires to cook food for human consumption provided the fire is confined to a fire ring, fireplace, charcoal or gas grill or other similar fireproof container;
- b. Fires used exclusively for farming activities on properties containing a minimum of ten (10) acres, provided that any such burning occurs at a distance of not less than one hundred (100) lineal feet from the nearest point of any building and not less than one hundred (100) lineal feet from any boundary line of the tract of land on which said burning occurs;
- c. Upon issuance of a permit from the Emergency Services Administrator or other duly authorized official of the Township kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
 - (1) Where required by state law or regulations, open burning shall only be permitted with prior approval from the Bureau of Air Quality Control or other State authority, provided that all conditions specified in the authorization are followed.
- d. Bonfires, upon the issuance of a permit from the Emergency Services Administrator or other duly authorized official of the Township, provided that:

- (1) The fuel for the bonfire shall not be more than five (5) feet long by five (5) feet wide by five (5) feet high in dimension and shall not burn longer than three (3) hours. The size and duration of a bonfire shall only be increased with the approval of the Emergency Services Administrator or other duly authorized official of the Township;
- (2) Fuel for a bonfire shall consist only of seasoned, dry firewood and shall be ignited with a small quantity of paper;
- (3) Any such bonfire must occur at a distance of not less than one hundred (100) lineal feet from the nearest point of any building and not less than one hundred (100) lineal feet from any boundary line of the tract of land on which said bonfire occurs.
- (4) All bonfires must be completely extinguished at the end of the event. The end time will be noted in the permit.

e. Fires set or maintained for fire fighting training practices.

SECTION 2 – ADDITIONAL RESTRICTIONS FOR ALL BURNING ACTIVITIES

- a. It shall be and is hereby declared to be unlawful for any person, firm, partnership or corporation to burn any substance or maintain and fire upon any of the public streets, roads, highways, alleys, sidewalks, parks or other public grounds within and under the jurisdiction of South Middleton Township, unless specifically authorized in advance of such burning by specific authority of the Board of Supervisors.
- b. Burning which produces noxious smoke that could travel to an adjoining property and cause personal discomfort to the residents of that adjoining property or when atmospheric conditions or local circumstances make such fires hazardous shall not be permitted. Additionally, no burning shall be permitted between dusk and dawn of any day or on Sunday. All fires must be completely extinguished by the initiating property owner before dusk.
- c. Any permitted open burning shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher, small hose line, or other approved on-site fire-extinguished equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.
- d. Open burning of refuse is prohibited. Refuse shall refer to any waste material including, but not limited to, construction and demolition waste but excluding trees, logs, brush, grass clippings and other vegetative matter.
- e. Open burning of recyclable materials is prohibited.

- f. Additional restrictions may be placed on fires by the Emergency Services Administrator or other duly authorized official of the Township if it is determined that the situation is likely to constitute an unreasonable threat to people or property. During periods of low humidity, drought, high wind or other adverse weather conditions, the official may restrict burning to prevent the spread of fire. The Emergency Services Administrator or other duly authorized official of the Township shall have the authority to order the extinguishment of any fire in violation of this ordinance or which an unreasonable threat to people or property. Prior to any approved exception of this burning ordinance to allow burning, the property owner must notify the Emergency Services Administrator (717) 258-5324 or other duly authorized official of the Township of their intent to burn with the hours of burning stated and notify the Cumberland County Communications Center (717) 243-4121 of their intent to burn to prevent any unnecessary dispatching of fire apparatus.

SECTION 3 – OUTDOOR FURNACES

- a. Outdoor furnaces are permitted in South Middleton Township subject to the following conditions and requirements:
 - (1) Only dry “clean wood” or coal may be burned. “Clean Wood” means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
 - (2) Furnaces are not permitted in the V, VC, C1, C2, I-1, I-2, and I-3 Zoning Districts.
 - (3) Furnaces may only be utilized on lots or parcels of land of three and ¼ (3.25) or more acres. For purposes of meeting this minimum lot area requirement, the owner of any lot having an area of less than 3.25 acres may utilize an easement area, granted by all legal owners of property abutting the property that is less than 3.25 acres, subject to the following conditions and requirements:
 - (a) The easement area shall be specifically for purposes of allowing the use of an outdoor furnace;
 - (b) The easement area shall be of a uniform equal distance from both side yard, rear yard and, where applicable, front yard property boundaries of the property for which benefit the easement is granted;

- (c) The area of the lot upon which the boiler is to be utilized together with the area of the easement granted by the adjoining property owner or owners shall be no less than 3.25 acres;
- (d) The easement shall be documented by an easement instrument that shall be recorded in the office of the Recorder of Deeds for Cumberland County, which instrument shall describe and/or depict the dimensions of the easement area with specific reference to the boundaries of the property benefiting from the easement;
- (e) The easement granted shall run in perpetuity unless it is extinguished by mutual recorded agreement executed by the owners of the property receiving the benefit of the easement and the owners of the property that had granted the easement, or their respective successors and/or assigns in title, provided that the boiler is first removed from the property and prior notice thereof is given to the Township;
- (f) The easement instrument shall be approved by the Township Solicitor prior to recording and once recorded, evidence of recording shall be provided the Township;
- (g) The furnace cannot be constructed, erected or placed on the property prior to the recording of the easement instrument; and
- (h) The furnace must be placed no less than 500 feet from the nearest residential structure not on the lot where the boiler is located.

Upon approval and recording of the easement instrument, the boundaries of the easement area shall be considered the lot lines of the lot on which the boiler is placed, only for the limited purposes of the setback requirements from rear and side lot lines as specified in Section 3a(4) below; however, no furnace may be constructed, erected or placed within any easement area granted.

- (4) Furnace must be set back at least two hundred (200) feet from the front lot line and one hundred (100) feet from the side and rear lot lines and five hundred (500) feet from the nearest residential structure not on the lot where the boiler is located.
- (5) Furnace must be equipped with a properly functioning spark arrestor.

- (6) The furnace may not be used as a waste incinerator.
 - (7) Lighter fluids, gasoline, and chemicals to start the boiler are prohibited.
 - (8) Installation, use, and operation must comply with all applicable county, State and/or Federal laws, regulations and guidelines as well as applicable building and other codes of the Township.
 - (9) Use shall be limited to October 1 to May 1.
 - (10) Stack height shall be at least twenty (20) feet or at least two (2) feet above the roof of the highest structure within two hundred (200) feet.
 - (11) The use of the furnace shall not cause a nuisance to neighboring or other property.
- b. Any outdoor furnace existing as of the effective date of this Ordinance which has been properly permitted prior to the effective date of this Ordinance shall not be required to comply with Sections 3(2), (3), (4), and (10) above of this Ordinance.

SECTION 4 – PENALTIES

Any person or entity who shall violate the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding before a district justice, be sentenced to pay a fine of not exceeding one thousand (1,000.00) dollars, plus costs of prosecution, and in default of payment of such fine and costs, shall be imprisoned for not more than thirty (30) days in the County Prison. Extinguishing costs may also be assessed as necessary.

SECTION 5 – SEVERABILITY

The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted and enacted as if such unconstitutional, illegal or invalid provision had not been included therein.

SECTION 6 – REPEALED

Any ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7 – EFFECTIVE

This Ordinance shall become effective five (5) days from the date of enactment.

DULY ENACTED AND ORDAINED INTO LAW this 18th day of December,
2008.

Attest:

Sandra A. Quickel
SANDRA A. QUICKEL, Secretary

BOARD OF SUPERVISORS
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