

TOWNSHIP OF BALDWIN

ORDINANCE NO. 448

AN ORDINANCE OF THE TOWNSHIP OF BALDWIN, COUNTY OF ALLEGHENY, IN THE COMMONWEALTH OF PENNSYLVANIA, REPEALING ORDINANCE NO. 3-1962; AND ESTABLISHING REGULATIONS AND RESTRICTIONS ON OPEN FIRES AND OPEN BURNING; AND PROVIDING FINES AND PENALTIES FOR VIOLATIONS THEREOF.

The Board of Commissioners of the Township of Baldwin, County of Allegheny, Commonwealth of Pennsylvania, does hereby ordain and enact the following Ordinance:

Article 1. General Prohibition Prohibiting Fires and Burning without Permit:

From and after the effective date of this Ordinance, no person, corporation, partnership, association, organization or other group whatsoever (hereinafter collectively referred to as “property owner” or “person” as applies) shall burn any materials of any kind in the Township, except as authorized by this Ordinance or as authorized pursuant to a valid permit issued by Allegheny County pursuant to County Ordinances and regulations.

Article 2. Small Open Fires Authorized; Limitations:

A. “Small Open Fire” - defined: As used in this Ordinance, the term “small open fire” or “open fire” shall mean the use of a grill, outdoor barbeque, fireplace or similar device to cook food with charcoal, natural gas, or wood; or any other fire from which the properties of combustion are emitted directly into the air without first passing through a structural stack or chimney, and being of such maximum size and using only such materials as authorized hereunder, and otherwise complying with this Ordinance, and conducted in such location, conditions, and in a manner which contributes only a negligible amount of air contaminants.

B. Subject to rules, regulations, and limitations contained in this Ordinance, an adult property owner may authorize and allow on his or her property small open fires solely for the following purposes:

1. warmth of outdoor workers (only at temperatures below 40° F); and
2. non-commercial preparation of food for human consumption, light, ornament, or recreation.

Article 3. Rules and Regulations Regarding Small Open Fires Authorized Without Permit:

A. Permitted Receptacles/Containers:

1. For warmth of outdoor work crews: Small open fires for outdoor work crews (allowed only at temperatures below 40° F) may be conducted in non-combustible containers no larger than a 55 gallon drum, with all combustible material and the flame itself at all times to be completely contained within the container and with only one open fire per work crew.

2. Other Authorized Open Fires: All other small open fires authorized under this Ordinance must be contained within one of the following Authorized Containments: in a grill, barbeque, fireplace, chiminea, stone perimeter, non-combustible fire ring, drum, or other similar non-combustible receptacle, container or device, or in a fire pit. Fire pits shall be no larger than three (3) feet in diameter and no less than 18 inches deep (as measured from the base of the pit to the top of pit or to the top of any surrounding perimeter stones or other non-combustible containment devise or mechanism).

B. Permitted Locations:

1. Grills, outdoor barbeques or fireplaces designed for and used strictly for cooking only shall be no less than five (5) feet from a house, structure, inhabited area, roadway, utility or property line.

2. Other open fires shall be maintained in an Authorized Containment located not less than fifteen (15) feet from the nearest house, structure, inhabited area, roadway, property line, utility, tree, or other combustible materials. (Nothing herein shall prohibit the use of a patio chiminea, patio heater, or other manufactured above ground patio fire pit, patio fire table, or similar containment devise on a deck or patio where the devise is designed and recommended for such use by the manufacturer.)

C. Permitted Materials: All open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel; dry, clean, logs, twigs, or other untreated wood products. Only smokeless fuels, or small kindling, if any, may be used to start a fire. No painted or chemically treated woods, plastics, cardboard boxes, paper, household wastes, toxic or noxious materials, cloth, leaves, green yard waste or other materials that tend to cause excessive or malodorous emissions or excessive smoke may be used to start or maintain a fire.

D. Maximum Size: In all cases, the fire shall be of such size that the combustible material and flame are contained completely within the perimeter of the authorized containment receptacle, and in no case may the combustible material and flame be greater than nine (9) square feet in area or in excess of two (2) feet in height above the receptacle.

E. No Excessive Smoke, Odors or Malodorous Emissions: No persons shall allow or maintain a fire which creates excessive smoke, excessive odor, or malodorous emissions. Smoke and odors shall be considered excessive if they contribute more than a negligible amount of air contaminants perceptible beyond the property line of the source of the fire.

F. Adult Supervision, Control, Extinguishment: Only an adult property owner or other adult authorized by the property owner shall authorize or conduct a small open fire. The adult property owner or other adult authorized by the property owner to conduct such a fire shall at all times be present at and shall tend to the fire from the time it is lit through the time of total extinguishment. Adequate means to control and extinguish the open fire shall be readily available at all times during any burning. Suitable covering or means of disposal of ashes shall be provided to prevent them from becoming air-borne. The adult property owner or other authorized person supervising the fire shall be responsible to assure that all aspects of the fire comply with this Ordinance and shall assure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or non-compliant fire or burning, the property owner or other person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning. Proof that the defendant in any enforcement action owns or controls the property on which open burning occurs shall be prima facie evidence that such person has conducted, or allowed to be conducted, such open burning.

Article 4. Police Authorized to Order Immediate Extinguishment, Abatement or Correction of Fires:

A police officer or other duly authorized law enforcement officer of the Township of Baldwin may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected (in his or her sole discretion) if, in the officer's sole judgment, the fire:

- A. is emitting excessive smoke, excessive odor, or malodorous emissions;
- B. contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- C. is in a prohibited location or of a prohibited size;
- D. is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
- E. where its size, materials, containment, location, emissions, proximity to structures, trees, other combustible materials, conduct of participants, weather conditions (including but not limited to wind, drought, dry or other conditions) or air quality, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property.

Article 5. Prohibited Acts.

A. No person, firm or corporation shall permit, authorize, conduct, or participate in the burning of any open fire except in compliance with this Ordinance.

B. No person, firm or corporation shall refuse to comply immediately and fully with any order of a Baldwin Township Police Officer or other duly authorized law enforcement officer to contain, control, correct, or extinguish, any fire or burning.

Article 6. Penalties.

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than the greater of one thousand dollars (\$1,000.00) or the maximum amount per offense permitted under law, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each violation of any provision of this Ordinance shall constitute a separate offense. In addition, in any civil enforcement action brought by the Township to collect unpaid fines or penalties imposed pursuant to this Ordinance, the Township shall also be entitled to collect all costs, expenses, and attorneys fees associated with such action.

Article 7. Severability:

In the event that any section or sections of this Ordinance, or parts of the same, shall be declared to be invalid by any Court of competent authority, the remaining provisions of this Ordinance shall continue in full force and effect notwithstanding.

Article 8. Repealer:

This Ordinance is intended to repeal and replace in its entirety Ordinance No. 3-1962 (enacted June 4, 1962) [as codified at Chapter 7 of the Township Code of Ordinances]. In addition, any other Ordinance or part(s) of any Ordinance(s) which conflicts with the terms and provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Article 9. Effective Date:

This Ordinance shall take effect immediately as provided under law.

ORDAINED AND ENACTED into law this 15th day of June, 2010.

ATTEST:

THE TOWNSHIP OF BALDWIN

Mary McSweeney
Secretary

Eileen Frisoli
Eileen Frisoli, President

Approved as to firm by:

Thomas P. McDermott
Thomas P. McDermott, Solicitor