

ORDINANCE NO. 2010 - 5

**AN ORDINANCE AMENDING CHAPTER 59 OF  
THE CODE OF THE TOWNSHIP OF HILLTOWN,  
REGULATING AND RESTRICTING OPEN BURNING  
IN THE TOWNSHIP OF HILLTOWN, BUCKS COUNTY,  
PENNSYLVANIA**

The Board of Supervisors of Hilltown Township desires to amend Chapter 59 of the Code of Hilltown to provide regulation of the open burning of domestic refuse, leaf waste, and yard waste material within Hilltown Township to protect and preserve the health, safety, welfare and quality of life of both residents and the general public.

**1. PURPOSE**

It is against public policy to permit uncontrolled, unrestricted outdoor burning. The purpose of this Ordinance is to prevent needless public damage to life and outdoor property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and improperly maintained.

**2. DEFINITIONS**

For the purpose of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

- A. Air Basin – A geographic area of this Commonwealth. Pursuant to 25 PA Code 121.1, Hilltown Township is part of the Southeast Pennsylvania Air Basin.
- B. Air Curtain Destructor – A mechanical device which forcefully projects a curtain of air across a pit in which open burning is being conducted so that combustion efficiency is increased and smoke and other particulate matter are contained.
- C. Burning – The act of consuming by fire; to flame, char, scorch, or blaze. As used in this Ordinance, smoldering shall have the same meaning as burning and any smoldering shall be deemed a burning.
- D. Contained Fire – Any fire contained in an incinerator, fireplace, cooking grill or other contained enclosure designed for outdoor cooking, or a fireproof container.
- E. Domestic Refuse – Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two (2) families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, treated wood or similar materials.

- F. Leaf Waste - as defined in Act 101, as adopted and amended, includes leaves, garden residue, shrubbery and tree trimmings, and similar material, but not grass clippings.
- G. Grubbing Waste – Trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition of wastes and dirt laden roots.
- H. Open Burning – A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.
- I. Person – Any individual, partnership, organization, association, agency, firm, estate or corporation, and any other legal or commercial entity.
- J. Responsible Adult – An individual eighteen (18) years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.
- K. Uncontained Fire – Any fire not included in the definition of a “Contained Fire.”
- L. Yard Waste - as defined in Act 101, as adopted and amended, includes leaves, garden residue, shrubbery, tree trimmings, and grass clippings.

### **3. GENERAL LIMITATIONS ON BURNING**

- A. Compliance with Ordinance – It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this ordinance.
- B. Exceptions – The following types of open burning are permitted so long as such burning is in compliance with the general prohibitions listed below.
  1. A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection’s Bureau of Air Quality and set by or under the supervision of a public officer.
  2. Any fire set for the purpose of instructing personnel in fire fighting, when approved by the Department of Environmental Protection’s Bureau of Air Quality.
  3. A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection’s Bureau of Air Quality.
  4. A fire set for the purpose of burning grubbing waste. An air curtain destructor must be used and must be approved by the Department of Environmental Protection’s Bureau of Air Quality.
  5. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

6. A fire set solely for cooking food.
7. A fire set for recreational or ceremonial purposes.

C. General Prohibitions – The below listed prohibitions shall apply throughout the Township and to incidents of open burning:

1. Domestic Refuse, Leaf Waste, and Yard Waste – No person shall set, start, feed, permit to burn, or maintain any fire using domestic refuse, recyclable materials, leaf waste and/or yard waste at any time.
2. Public Roads and Public Properties – No person shall set, start, feed, permit to burn, or maintain any fire upon any of the streets and/or rights-of-way, sidewalks, alleys, or public grounds in Hilltown Township, except where a designated area has been set aside and reserved for this purpose by the Township and an appropriate contained has been provided to contain such fire.
3. Control of Burning and Unattended Fires – No fire shall be allowed to burn unattended without a responsible adult being present at all times and without readily available fire extinguishing apparatus. No fire shall be set that results in uncontrolled burning of vegetation (field fires).
4. Drought/Extreme Weather – No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on open burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body. The Board of Supervisors may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
5. Notice- Prior to a planned cooking, recreational or ceremonial burn, a person must notify the Hilltown Township Police Department at (215) 453-6000, Extension 226, Monday through Friday, between the hours of 8:00 a.m. and 4:00 p.m., or at (215) 453-6011 after hours and/or on weekends.
6. Hours – No person shall burn or cause to be burned any material of any kind outdoors, anywhere in the Township of Hilltown between sunset and sunrise; excepting fires set solely for cooking food and those set for recreational or ceremonial purposes. Recreational fires must use natural, untreated wood and contain a fuel source of no more than eight (8) cubic feet.
7. Unlawful Substances – Burning of construction debris, plastics, byproducts of manufacturing and processing operations, wastes from commercial operations is strictly prohibited. Nothing herein shall be construed to permit or encourage the burning of any substances 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 of the Commonwealth of Pennsylvania or the United States of America or any other competent body. No garbage or offal may be burned at any time either indoors or outdoors. Fires shall be used only to burn readily combustible materials.

8. Total Prohibition- No open burning of any sort shall be permitted between the hours of 1:00 a.m. and 5:00 a.m.

#### **4. EXTINGUISHING UNSAFE FIRES**

Any fire set or allowed to burn in violation of this Ordinance may be extinguished by the Hilltown Township Fire Company or other authorized body, without prior notice to the landowner. In the event that a fire company is required to respond to a fire which violates this Ordinance, a service fee may be levied by the responding fire company.

#### **5. ENFORCEMENT; VIOLATIONS AND PENALTIES**

- A. Prevention – Hilltown Township may issue such orders as are necessary to aid in the enforcement of the provisions of this Ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this Ordinance; orders to take corrective action or to abate a public nuisance; orders requiring the testing, sampling, or monitoring of any open burn; or others requiring production of information. Such an order may be issued if Hilltown Township finds that any condition existing in or on the facility or source involved is causing or contributing to open burning or if Hilltown Township finds that any person is in violation of any provision of this Ordinance. Hilltown Township may, in its order, require compliance with such conditions as are necessary to prevent or abate open burning or affect the purposes of this Ordinance. An order issued under this section shall take effect upon notice. An appeal of such order shall not act as a supersedeas, provided, however, that, upon application and for cause shown, such a supersedeas may issue.
- B. Criminal Penalties – Any person who violates any provision of this Ordinance or any order of Hilltown Township issued pursuant to this Ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for thirty (30) days for each separate offense. Employees of Hilltown Township are authorized to conduct inspections or investigations and are hereby declared to be lawful enforcement officers authorized to issue or file citations for summary violations under this Ordinance, and the Hilltown Township Board of Supervisors is hereby authorized to prosecute these offenses. For purposes of this section, a summary offense may be prosecuted before any District Justice. There is no accelerated rehabilitative disposition authorized for a summary offense.

- C. Civil Penalties- In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this Ordinance or any order issued pursuant to this Ordinance, Hilltown Township may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed Eight Thousand Dollars (\$8,000.00) per day for each violation. In determining the amount of penalty, Hilltown Township shall consider the willfulness of the violation, damage to air, soil, water, or other natural resources of Hilltown Township or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to Hilltown Township; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved, whether the violation was voluntarily reported; other factors unique to the owners or operators of the source or facility; and other relevant factors. In any case where a civil penalty for violation has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefore in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney's fees incurred by the Township in enforcement proceedings.
- D. Equitable and Other Remedies – No penalties herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies.
- E. Liability – Hilltown Township and its agents, officials, and representatives, shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance, or by the reason of the conduct of any burning activity in compliance with the terms and provisions of this Ordinance. The individual person or party responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

## **6. SEVERABILITY**

The Sections of this Ordinance are severable; and if any Section or part thereof is found to be unconstitutional or unenforceable, then such determination shall not affect the validity of the remaining Sections or parts thereof.

## **7. REPEALER**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

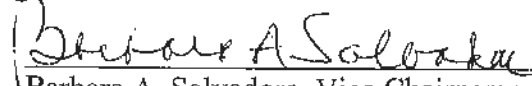
**8. EFFECTIVE DATE**

This Ordinance shall take effect five (5) days following enactment.

Enacted and Ordained by the Board of Supervisors of Hilltown Township, Bucks County, Pennsylvania on the 27<sup>th</sup> day of September, 2010.

HILLTOWN TOWNSHIP  
BOARD OF SUPERVISORS

  
\_\_\_\_\_  
John B. McIlhinney, Chairman

  
\_\_\_\_\_  
Barbara A. Salvadore, Vice Chairperson

  
\_\_\_\_\_  
James C. Groff, Supervisor