

WEST HANOVER TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 2010-02

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF WEST HANOVER TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA, AMENDING CERTAIN SECTIONS OF CHAPTER 85, BURNING, OPEN, OF THE CODE OF WEST HANOVER TOWNSHIP.

BE IT ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF WEST HANOVER TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

**CHAPTER 85**

**BURNING, OPEN**

**[HISTORY: Adopted by the Board of Supervisors of the Township of West Hanover 1-20-1986 as Ch. 7, Part 3, of the 1986 Code; amended in its entirety 6-4-2001 by Ord. No. 2001-6. Subsequent amendments noted where applicable.] GENERAL REFERENCES**  
Fire Company — See Ch. [19](#). Fire Marshal — See Ch. [22](#). Fire prevention — See Ch. [103](#).

**BOLD = Changes/additions**

**85-1 Purpose.**

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

**85-2 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BURN BAN** – An order or directive issued by the Township Fire Marshal and/or any county or state agency having jurisdiction prohibiting outside fires and burning during a time of drought or other emergency situation or condition. [Added 8-1-2005 by Ord. No. 2005-6]

**BURN PERMIT** -A permit to kindle or maintain such open fires or other fires. The permit shall be issued, ~~for the Board of Supervisors,~~ by the Township Fire Marshal upon application, thereof made to the township. A burning permit is valid for a time period as approved by the Fire Marshal. ~~A fee for each burning permit, as established by the Board of Supervisors, shall be charged.~~

**CONTAINED FIRE** -Any fire contained in an incinerator, ~~fireplace or other contained enclosure designed for outdoor cooking,~~ or a **fireproof non-combustible container. A container must have a bottom, sides and a top which may be removable.**

ENFORCEMENT OFFICER – The Fire Marshal of West Hanover Township and the Code Enforcement Officer shall be designated enforcement officers under this chapter.

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

INCINERATOR/NONCOMBUSTIBLE CONTAINER - ~~Any~~ **A** device specifically designed for the destruction by burning of ~~refuse, sewage sludge, or~~ any combustible material.

NUISANCE SMOKE - Solid particles and/or microdebris generated by open or contained burning that interferes with the enjoyment, public health, and use of property.

OPEN FIRE - Any fire not contained **including camp fires**.

PERSON - Any individual, **or agent of a** partnership, association, corporation, department, bureau, agency or legal entity.

REFUSE - Garbage, rubbish and trade waste.

RESPONSIBLE ADULT - An individual 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.

RUBBISH - Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, excelsior, ashes and furniture.

TRADE WASTE - All solid or liquid material or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry, including, but not limited to, plastic products, cartons, paint, grease, oil, and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials.

### **85-3 Fires on public property prohibited.**

No person, firm, partnership or corporation shall set or maintain any fire at any time upon any of the streets, sidewalks, alleys or public grounds in West Hanover Township, or burn or cause to be burned thereon any paper, garbage, refuse, debris, boxes, rubbish, leaves, weeds or other material or substance of any kind, unless the person doing so shall be an employee of West Hanover Township authorized to do so.

### **85-4 Fires on private property restricted.**

A. **Open** ~~Outdoor~~ fires shall be permitted upon private property in West Hanover Township under and subject to the following requirements:

1. ~~Open fires shall not be permitted in the R1, R2 zoning districts. In all other zoning districts, open fires shall be permitted only on lots that are greater than 15,000 square feet. All open fires in West Hanover Township require a burn permit issued by the West Hanover Township Fire Marshal.~~
2. ~~The burning of leaves, branches or yard trimmings by the occupant of the property upon which the burning occurs shall be permitted, so long as none of the branches and yard trimmings exceed a diameter of four inches and are the branches, yard trimmings or leaves of the occupant of the property upon which the burning occurs. Open Fires shall not exceed 6 feet in diameter and 6 feet in height and must be 50 feet from any structure and 25 feet from any property line.~~
3. ~~All such fires must be attended at all times by a responsible adult person. Camp fires require a burn permit and shall not exceed 2 feet in diameter and 2 feet in height, and are subject to all other provisions in this chapter.~~
4. ~~No fire shall be set, started or maintained between one hour prior to sunset and 7:00 a.m.~~

B. Contained fires shall be permitted upon private property in West Hanover Township ~~under and~~ **are** subject to the following requirements:

**ADD & RENUMBER**

1. **Contained fires in West Hanover Township Zoning Districts R1, R2, R3, CH, IE, BE, NC, and I require a burn permit issued by the West Hanover Township Fire Marshal.**
2. **Contained fires in West Hanover Township Zoning Districts C, FRA, and RR, where the lot size is a minimum of one acre, do not require a burn permit.**
3. No fire shall be set, started or maintained unless confined within a noncombustible container designed or adapted to prevent the escape of fire-starting sparks to nearby combustible materials or substances.
4. No fire shall be set, started or maintained in a noncombustible container unless such container is located at least 50 feet from any building, automobile, public roadway, garbage or waste container or any other combustible material or substance, **and 25 feet from any property line.**
5. ~~Cooking for a family~~ **on an outdoor cooking barbecue appliance shall be allowed in an approved barbecue container and be all zoning districts and is subject to all restrictions stated herein except § 85-4B(2).**

6. **Chimineas/fire pots are allowed so long as the manufacturers recommendations are followed and the use does not cause a hazard to persons or property.**
- C. Any fires permitted under Subsections **A** and **B** above are also subject to the following general requirements:
1. All such fires must be attended at all times by a responsible adult person.
  2. ~~No garbage, animal substance or parts thereof, any can that contains or did contain air or gas under pressure, or any chemical or substance which is a hazardous chemical or hazardous substance, or which, when burned, would create a hazardous or offensive condition, may be burned at any time under any condition.~~

### **ADD AND RENUMBER**

2. **The burning of leaves, branches, or yard trimmings by the owner or agent of the property upon which the burning occurs shall be permitted, so long as it does not endanger any structure on said property or any other persons property or structure and as long as none of the branches and yard trimmings exceed a diameter of four inches and are the branches, yard trimmings or leaves of the property upon which the burning occurs.**
3. ~~No fire shall be set, started, fed, permitted to burn or maintained: where such fire may endanger any building or property, except where such building or property is being used by the Fire Department for training purposes.~~
  - a. **Where such fire may endanger any building or property, except where such building or property is being used by the Fire Company for training purposes.**
  - b. **Between one (1) hour prior to sunset and 7:00 AM, with the exception of campfires and outdoor cooking appliances.**
4. **Unlawful substances. The following shall not be burned at any time under any condition:**
  - a. ~~Burning of construction debris, aerosol cans, by products or of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.~~
  - a. **Garbage.**
  - a. **Animal substance.**
  - b. **Any can that contains or did contain air or gas under pressure.**

- d. **Any chemical or substance which is a hazardous chemical or hazardous substance, or which when burned, would create a hazardous or offensive condition.**
  - e. **Construction debris, by-products of manufacturing and processing operations and wastes from commercial operations.**
5. ~~b.~~ Nothing herein shall be construed to permit or encourage the burning of any substance 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 persons if such burning is in violation of ~~the Air Pollution Control Act or other~~ legislation by the Commonwealth of Pennsylvania or the United States of America or any of their legislative agencies.
- ~~(e) — Fires shall be used only to burn readily combustible materials.~~

D. Extinguishing unsafe fires.

- 1. It is a violation of this chapter for any person to allow any fire to burn under adverse weather conditions or unsupervised, or otherwise in an unsafe manner. Any such fire may be extinguished by an official of the ~~township-designated~~ fire company or extinguished immediately upon request of such official.
- 2. It is a violation of this chapter for any person to allow a legal contained or open fire to generate nuisance smoke as defined herein. Any such fire may be extinguished by an official of the ~~township-designated~~ fire company unless extinguished immediately upon request of such official.
- 3. **For any fire requiring a response by the Fire Company the person or agent shall pay charges to cover all incurred fire suppression costs in accordance with Chapter 19 of the Code of West Hanover Township.**

**85-5 Permit required, application.**

- A. Any person, firm, partnership or corporation ~~may~~ **shall** apply to the Fire Marshal of West Hanover Township for a **burn** permit to set, start or maintain a fire, **except when a permit is not required per Section 85-4.B(2).** ~~which, under the terms of this chapter, is prohibited as set forth above. Such an application must be in writing and shall specify:~~ **The burn permit application must be completed and submitted to the Fire Marshal for approval.**
- ~~(1) The time that such a fire is to be started.~~
  - ~~(2) The material or substance to be burned.~~
  - ~~(3) Where the fire is to be located.~~

~~(4) The duration of such fire.~~

~~(5) The names of the person or persons who will attend or supervise such fire.~~

B. The Fire Marshal of West Hanover Township shall consider said application and shall notify the applicant within ~~ten (10) five (5)~~ days from the date of the submission of the application whether or not a permit will be granted and under what condition or conditions the permit will be subject. ~~In his consideration of the application,~~ The Fire Marshal may, ~~in the case of large burning or potentially hazardous substances,~~ require as a condition that the applicant have present ~~to attend the fire such~~ necessary personnel of the West Hanover Township ~~Volunteer~~ Fire Company. In such cases, a condition of the issuance of the permit shall be that the applicant pay any reasonable fees for service ~~properly established and required~~ by the West Hanover Township ~~Volunteer~~ Fire Company.

~~C. Additional costs. In the case of a fire requiring firefighters and/or equipment and in violation of this chapter, the violator shall pay charges to cover all incurred fire suppression costs.~~

#### **85-6 Weather conditions; prohibition of all fires.**

A. During periods of drought or extended periods of time without rainfall, no fire shall be set, started or maintained, nor shall any permit be issued, during such period of time. The Fire Marshal of West Hanover Township shall be responsible for determining when a period of drought or period of inadequate rainfall exists under this section. Upon making his determination, the Fire Marshal shall thereupon notify the West Hanover Township Board of Supervisors or a designated official of said Board, whereupon public notice that no fire shall be set shall be given through the use of such public news media as the Board deems reasonable.

B. Any directive or prohibition against outdoor burning issued by any county or state agency having jurisdiction shall be considered equivalent to any burn ban issued by the West Hanover Township Fire Marshal as per the authority expressed in Chapter 22, Fire Marshal, § 22-3F. [Added 8-1-2005 by Ord. No. 2005-6]

#### **85-7 Violation and penalties**

Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000. Every day that a violation of this chapter continues shall constitute a separate offense. It is further provided that, upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the county prison for a period of not exceeding 30 days.

#### **85-8 Enforcement**

The Board of Supervisors shall appoint the Fire Marshal, who shall have the power to enforce the provisions of this chapter, or in the absence of the Fire Marshal, a ~~an designated~~ officer, designated by the Fire Marshal.

**85-9 Municipal liability**

The Board of Supervisors, 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 issuance of any permit under the provisions of this chapter, or by reason of the conduct of any burning activity in compliance or noncompliance with the terms and provisions hereof. The person, persons, company or companies responsible for any such fire and the permit holder shall bear sole liability for any damages caused as a result thereof.

Section 2. Saving Clause.

That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby; nor shall any just or legal right or remedy or any character be lost, impaired or affected by this Ordinance.

Section 3. Date of Effect.

That the Secretary of West Hanover Township shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take full force and effect immediately upon final passage and approval.

ENACTED AND ORDAINED as Ordinance 2010 - 2 this 5<sup>th</sup> day of April, 2010.

ATTEST:

WEST HANOVER TOWNSHIP  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Chris Scott  
Secretary

\_\_\_\_\_  
Linda L. Turns  
Chairman

SEAL