

ORDINANCE NO. 2009-05

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF DICKINSON, ADOPTED BY ORDINANCE 2004-3 AND THEREAFTER AMENDED, WITH RESPECT TO CHAPTER 75 TO AMEND SAID CHAPTER IN ITS ENTIRETY TO MODIFY PROVISIONS RELATING TO OUTDOOR BURNING AND TO REGULATE THE INSTALLATION AND USE OF OUTDOOR WOOD-FIRED HEATING OR ENERGY SOURCE DEVICES.**

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dickinson, Cumberland County, Pennsylvania, as follows:

SECTION 1: Chapter 75 [Burning, Outdoor] is hereby amended to state in its entirety as follows:

**Chapter 75**

**BURNING, OUTDOOR**

Article I

**Preliminary Provisions**

**§ 75-1. Title.**

This chapter shall be known and may be cited as the "Dickinson Township Outdoor Burning Ordinance."

**§ 75-2. Legislative Intent.**

This Article is intended to promote public health, safety and welfare by preventing harmful air pollution and minimizing the potential for injury to persons and animals, loss of property or loss of life.

**§ 75-3. Definitions.**

The following words, terms and phrases when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different or contrary meaning:

**BURNING** – To be on fire or smoldering, the setting on fire, the causing of fire or smoldering, to cause by fire or smoldering.

CLEAN WOOD – 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.

CONTAINED BURNING – Any burning maintained outside a building or structure in an outdoor wood-fired heating or energy source device, incinerator, fireplace or other fireproof container.

HABITABLE SPACE –Space in a building, structure or portion thereof for living, sleeping, eating or cooking.

OCCUPANCY – The purpose for which a building, structure or portion thereof is utilized or occupied.

OUTDOOR WOOD-FIRED HEATING OR ENERGY SOURCE DEVICE – An apparatus, device, wood-fired boiler, stove, furnace or other equipment which is not located within a building or structure, other than in a structure principally housing or containing the outdoor wood-fired heating or energy source device, but which supplies heat or energy to habitable space or space intended for occupancy by humans or animals. Such term specifically includes apparatus, devices, boilers, stoves, furnaces or other equipment designed to burn fuel other than or in addition to wood, when used for purposes of burning wood.

PERSON – Any natural person or persons, partnership, association, corporation, firm, fictitious name or any other individual or business entity or their agents.

PROHIBITED MATERIALS – Any materials for which the burning, discarding or disposition is regulated by local, state, or federal laws, statutes or regulations, and in addition thereto, the following:

- (1) Garbage, food waste, manure or other domestic waste materials.
- (2) Tires, rubber, plastic, and/or fiberglass materials.
- (3) Upholstered furniture, mattresses, and/or box springs.
- (4) Building materials containing petroleum-based products, including but not limited to shingles, roll roofing, tar paper (felt), foam sheathing, insulation, vinyl siding and floor covering, carpet, plastic pipe, fiberglass materials, plumbing fixtures, and/or packing materials.

- (5) Waste oil, paint, thinners, solvents, and/or household cleaning products.
- (6) Pesticides and herbicides.

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 burning.

SMOLDERING – Has the same meaning as burning, and any smoldering shall be deemed a burning.

STRUCTURE – Any man-made object having an ascertainable location on or in land or water, whether or not affixed to land.

UNCONTAINED BURNING – Any burning maintained outside of a building or structure which is not a contained burning.

**§ 75-4. Enforcement.**

The Township Code Enforcement Officer, appointed fire and emergency management officials and any law enforcement officer shall be and hereby are charged with the authority to enforce the provisions of this chapter.

**§ 75-5. Penalties and violations.**

Any person who violates any provision of this chapter, upon summary conviction thereof, shall be sentenced to pay a fine of not more than One Thousand and No/100 Dollars (\$1,000.00), plus costs of prosecution, and in default of payment thereof, be imprisoned in the Cumberland County Prison for a period of not more than thirty (30) days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 75-6. Civil Remedies.**

In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful activities and to recover damages including the costs of extinguishment of unlawful burning and the costs incurred in protecting persons or property.

Article II  
**Outdoor Burning**

**§ 75-7. Burning and fires prohibited on public property; exceptions.**

No person shall set, cause to be set, maintain or permit to be maintained any fire, or burn any matter, of any kind upon any of the streets, sidewalks, alleys, or public grounds in Dickinson Township, unless specifically authorized by the Board of Supervisors or its appointed agent, or in the case of the municipal parks, in appliances designed for the preparation of food.

**§ 75-8. Uncontained burning on private property.**

No person shall cause or permit to be caused any uncontained burning of any kind upon any private property owned or occupied in Dickinson Township, except under the following conditions:

- A. Such burning shall not include, contain or be composed of any prohibited materials.
- B. All uncontained burning between sunset and sunrise is prohibited.
- C. Uncontained burning on Sunday and Monday are prohibited.
- D. No uncontained burning shall be permitted within 50 feet of any building or structure, whether or not owned by any person causing the burning or whether or not occupied.
- E. All uncontained burning shall be maintained and kept under the supervision of a responsible adult person actually at the scene of the uncontained burning at all times with fire extinguishing equipment available.
- F. All uncontained burning must be entirely extinguished and not permitted to burn or smolder after sunset.
- G. No uncontained burning shall emit noxious smoke over another property.
- H. All uncontained burning shall be reported to Cumberland County Communications Control Center at (717) 243-4121 prior to the institution thereof and again when such burning has been completed.

**§ 75-9. Contained burning on private property.**

No person shall cause or permit to be caused any contained burning of any kind upon any private property owned or occupied in Dickinson Township, except under the following conditions:

- A. Such burning shall not include, contain or be composed of any prohibited materials.
- B. No contained burning shall be permitted within 20 feet of any building or structure, whether or not owned by any person causing the burning or whether or not occupied. Contained burning within an outdoor wood-fired heating or energy source device shall be subject to the further restrictions set forth in article III of this chapter.
- C. All contained burning, except in an outdoor wood-fired heating or energy source device, shall be maintained and kept under the supervision of a responsible adult person actually at the scene of the contained burning at all times. Fire extinguishing equipment shall be immediately available for any contained burning.
- D. No contained burning shall emit noxious smoke over another property.
- E. Contained burning between sunset and sunrise is prohibited. This prohibition shall not apply to contained burning in a lawful outdoor wood-fired heating or energy source device.
- F. Contained burning on Sunday and Monday are prohibited. This prohibition shall not apply to contained burning in a lawful outdoor wood-fired heating or energy source device.

**§ 75-10. Exceptions to restrictions on burning.**

The requirements or prohibitions set forth in sections 75-7, 75-8 and 75-9 do not apply where the burning operations do not create a nuisance or safety hazard as may be determined by Township enforcement officials and result from:

- A. A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection (DEP), or other appropriate local, state or federal agency, and set by or under the supervision of said Township fire and emergency management officials.
- B. Any fire set for the purpose of instructing personnel in fire fighting when

approved by the DEP, or other appropriate local, state or federal agency.

- C. A fire set for the prevention and control of disease or pests, when approved by DEP, or other appropriate local, state or federal agency.
- D. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
- E. A fire set solely for cooking food in a container designed for such cooking.

**§ 75-11. Imposition of burning ban.**

When it is deemed to be in the interest of public health and safety, the Board of Supervisors may impose by resolution a temporary, partial, or full ban on burning, including but not limited to the following: uncontained burning, contained burning burning in outdoor wood-fired heating or energy source devices, or burning in charcoal or gas grilles. Such a ban shall be reviewed from time to time and lifted when the condition(s) resulting in the imposing of the ban no longer exist. When it is deemed to be in the interest of public health and safety, the Township fire or emergency officials shall have the authority to institute a temporary burning ban which shall expire no later than the next duly convened meeting of the Board of Supervisors at which meeting the Board shall determine to maintain such ban in whole or in part or to discontinue such ban. In addition, the Township shall be governed by any burning ban imposed by the Board of Commissioners of Cumberland County.

Article III

**Outdoor Wood-fired Heating or Energy Source Devices**

**§ 75-12. Burning in outdoor wood-fired heating or energy source devices.**

The use of outdoor wood-fired heating or energy source devices in Dickinson Township is permitted subject to the following conditions and requirements:

- A. Burning is restricted solely to dry clean wood and the burning of other matter is prohibited. Such burning shall not include, contain or be composed of any prohibited materials. During the entire period of use, every owner and user of an outdoor wood-fired heating or energy source device shall have a current contract with a licensed solid waste hauler and shall use its services for disposal of all household solid waste including, but not limited to trash, debris and garbage. Upon request, every owner and user of an outdoor wood-fired heating or energy source device shall present proof of a current waste disposal contract to the Township or authorized enforcement agency.

- B. Outdoor wood-fired heating or energy source devices are not permitted in the B-R Business Recreation, B-I Business Industrial and MDR-O Medium Density Residential Office zoning districts.
- C. Outdoor wood-fired heating or energy source devices must be set back at least 200 feet from the front lot line and 100 feet from the side and rear lot lines and 500 feet from the nearest residential structure not on the lot where the outdoor wood-fired heating or energy source device is located.
- D. Outdoor wood-fired heating or energy source devices must be equipped with a properly functioning spark arrestor.
- E. Lighter fluids, gasoline and chemicals to start the outdoor wood-fired heating or energy source device are prohibited.
- F. Installation, use and operation must comply with all applicable local, state and/or federal laws, regulations and guidelines as well as applicable building and other codes of the Township.
- G. All outdoor wood-fired heating or energy source devices must qualify for the United States Environmental Protection Agency (EPA) Phase 2 classification, or successor EPA technical standards, at the time of installation.
- H. The use of outdoor wood-fired heating or energy source devices shall be limited to the period from September 15 to May 15.
- I. Stack height shall be in accordance with the outdoor wood-fired heating or energy source device manufacturer's specifications.
- J. The use of the outdoor wood-fired heating or energy source device shall not cause a nuisance to the occupants of other property.
- K. Any outdoor wood-fired heating or energy source device installed and in use prior to the effective date of this article shall be permitted to remain in its present location and continue to be used provided the owner shall fully comply with all of the following provisions:
  - (1) The owner of such outdoor wood-fired heating or energy source device shall register the device with the Township Zoning and Code Enforcement Officer within sixty (60) days of the effective date of this ordinance. Registration shall not be complete unless all information requested in the registration form has been timely provided. No fee shall be imposed for the registration of such device.

The use of any such device not so registered shall be discontinued and the device shall be promptly removed from the property.

- (2) The use of such device, except for placement location and manufacturer specifications, shall otherwise comply with all remaining provisions of this chapter, any amendments thereto, and with all applicable local, state or federal laws or regulations.
- (3) Upon the expiration of the useful life of such device, but in no event later than (30) years from the effective date of this article, the use of such device shall be discontinued and the device shall be removed from the property; provided, nothing herein shall be construed to prohibit the installation or use of an outdoor wood-fired heating or energy source device which fully complies with the provisions of this chapter, any amendments thereto, and with all applicable local, state or federal laws or regulations.

SECTION 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, or determined to be preempted by state or federal law, such a decision shall not affect the remaining portions of the chapter, which shall remain in full force and effect, and for this purpose the provisions of this chapter are hereby declared to be severable.

[THIS SPACE LEFT BLANK INTENTIONALLY]



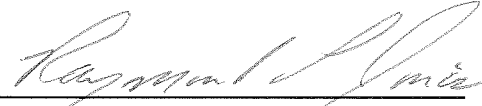
SECTION 3: In all other respects, the Code of the Township of Dickinson, Pennsylvania shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.


ENACTED AND ORDAINED this *8th* day of *September*, 2009.

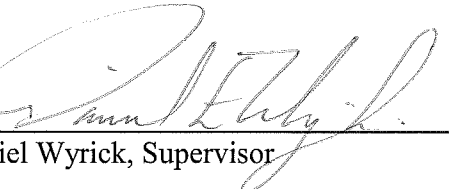
ATTEST:

**TOWNSHIP OF DICKINSON**

  
\_\_\_\_\_  
Laura Portillo, Secretary

By:   
\_\_\_\_\_  
Raymond L. Jones, Chairman


By:   
\_\_\_\_\_  
Allyn Perkins, Vice-chairman

By:   
\_\_\_\_\_  
Daniel Wyrick, Supervisor

**CERTIFICATE**

I, the undersigned, Secretary of the Township of Dickinson, Cumberland County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which was duly enacted by affirmative vote of a majority of the members of the Board at a meeting held on September  
8, 2009; said Ordinance has been duly recorded in the Ordinance Book of the Township; said Ordinance has been duly published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

**IN WITNESS WHEREOF**, I set my hand and affix the official seal of the Township, this  
9 day of September, 2009.

  
\_\_\_\_\_  
Laura Portillo, Secretary

