

**TILDEN TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 250-2023

AN ORDINANCE OF TILDEN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, AMENDING AND RESTATING IN ITS ENTIRETY, PART 2, TITLED "OUTDOOR FIRES" AND PART 3, TITLED "FIRE PREVENTION CODE" OF CHAPTER 9, TITLED "FIRE PREVENTION AND FIRE PROTECTION" OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF TILDEN TO PROVIDE FOR GENERAL RESTRICTIONS, COMMERCIAL BURNING, UNCONTAINED FIRES, EXCEPTIONS, AND PENALTIES, AND TO ADOPT THE INTERNATIONAL FIRE CODE, 2018 EDITION, AND TO PROVIDE FOR SEVERABILITY, REPEALER OF INCONSISTENT ORDINANCES, AND EFFECTIVE DATE

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

SECTION 1. Amendment to Chapter IX, Part 2. Part 2, entitled "Outdoor Fires," of Chapter IX, entitled "Fire Prevention and Fire Protection," of the Code of Ordinances of the Township of Tilden is hereby amended and restated in its entirety as follows:

Part 2
Burning

Section 201. Short Title. This Part shall be known and cited as the "2023 Tilden Township Burning Ordinance."

Section 202. Statement of Purpose. The purpose of this Part is to provide for better control and more effective regulation of excessive levels of smoke, air pollution, and sources of excessive smoke due to burning within the Township. It is the opinion of the Board of Supervisors that excess levels of smoke and air pollution are detrimental to the health, safety, and welfare of its residents.

Section 203. Definitions. The following terms shall have the following definitions when used in this Part:

(a) Attended. The presence of a Competent Adult who at all time maintains a clear view of the entire area of the fire and who is not more than fifty feet (50') from the fire until the fire is completely extinguished.

(b) Competent Adult. Any person over the age of eighteen (18) years who is not under the influence of drugs (either illegal drugs or prescription medication) or alcohol and who is not suffering from any serious mental illness.

(c) Contained Fire. Any fire contained in an incinerator, in a fireplace used by outdoor cooking or in a fireproof container.

(d) Fire. Combustion or burning, in which substances combine chemically with oxygen from the air and typically give out bright light, heat, and smoke. For purposes of this ordinance, the term "fire" refers to any fire set or maintained outside of an enclosed building.

(e) Garbage. All putrescible animal and vegetable matter resulting from the handling, preparation, cooking, and consumption of food.

(f) Person. Any individual, partnership, association, corporation, department, bureau, agency, or legal entity.

(g) Pit. A hole dug into the ground in which an outdoor fire is made.

(h) Rubbish. Solids or liquids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, used oil, glass, crockery, masonry, plastics, recyclable items, household waste, and other similar items.

(i) Township. The Township of Tilden, Berks County, Pennsylvania.

(j) Uncontained Fire. Any fire that is not a "Contained Fire."

(k) Vessel. A freestanding stone, brick, or metal device in which an outdoor fire is made.

(l) Yard Waste. Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material.

Section 204. General Restrictions.

(a) No fire shall be set or maintained within fifty feet (50') of any building or property line within the Township, except for cooking on appliances designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.) as contained in Section 204(g), below, or recreational or religious/ceremonial fires in accordance Section 204(h), below.

(b) No fire shall be set or maintained on any public road, or public property within the Township.

(c) No fire shall be set or maintained which may endanger any building or property, except where such building or property is used by a fire department for training purposes.

(d) No fire shall be set or maintained which includes the burning of any hazardous or dangerous materials, including aerosol cans, wastes from commercial operations, by-products of manufacturing or processing operations, and tires.

(e) No fires shall be set or maintained that exceed fifty (50) square feet.

(f) No fires shall be set or maintained between the hours of 9:00 p.m. and 7:00 a.m.

(g) This Part shall not apply to gas, charcoal or wood fires used for cooking purposes.

(h) This Part shall not apply to open fires set for recreational or ceremonial/religious purposes, pursuant to the following specific conditions:

(i) Only wood shall be burned, and no excessive smoke is allowed. Smoke shall be considered excessive if it contributes more than a negligible amount of air contaminants perceptible beyond the property line of the source of the fire;

(ii) Fires permitted for recreational or ceremonial/religious purposes shall be contained in a pit or similar vessel made of a non-combustible material such as iron, steel, masonry, or stone. Pits shall be no more than two and one-half feet (2 ½') deep, and vessels shall be no more than four feet (4') high.

(iii) A water hose and/or buckets/sprinkling cans shall be kept sufficiently close to the fire for purposes of controlling the same;

(iv) No fire shall be left unattended;

(v) Smoke and/or ashes shall not be permitted to blow onto windows and/or roofs of adjacent homes

(vi) Fires shall be extinguished thoroughly, with smoke cleared, before leaving the area and in all cases before 11:00 p.m.

(i) The burning of rubbish, to include designated recyclables, as determined from time to time by the Board of Supervisors as directed by the Garbage and Recycling Ordinance of the Township, is hereby prohibited at all times within the Township of Tilden.

(j) Yard waste shall not be burned on any property located, in whole or in part, in the R-3 and R-4 Zoning Districts, as described in the Tilden Township Zoning Ordinance and shown on its accompanying Zoning District Map.

(k) Nothing herein shall be construed to permit 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 person if such burning is in violation of the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001, et seq. or other legislation by the Commonwealth of Pennsylvania or the United States of America, or any of their legislative agencies.

Section 205. Commercial Burning. Burning for commercial purposes is permitted only where the business is authorized by and possesses a valid Pennsylvania Department of Environmental Protection permit for said burning.

Section 206. Uncontained Fires. Uncontained fires are subject to the general restrictions of Section 204, above, and additionally, the following:

(a) No uncontained fire shall be allowed to burn whenever drought or extreme weather conditions exist or when a ban on burning has been put into effect by the Commonwealth of Pennsylvania, the County of Berks or the Township Supervisors. Notice of such restriction shall be given by notice in a newspaper of general circulation, by posting a notice at the Township office and/or on the Township's website and/or social media

page(s), or by giving such other notice as the Township shall deem appropriate.

(b) The Berks County Fire Communications Center, Hamburg Fire Company and Shartlesville Fire Company, as appropriate, must be notified prior to burning any uncontained fire.

(c) The Tilden Township Police Department and the Desk Officer at the Pennsylvania State Police, Hamburg Barracks must be notified in the event a fire continues to burn after dusk

(d) No uncontained fire shall be maintained unless constantly attended by at least one competent adult.

(e) Any uncontained fire which is permitted to burn in an unsafe manner, under adverse weather conditions or which is unsupervised or which is determined to be unsafe by an official of the fire company or an officer of the Tilden Township Police Department shall be extinguished immediately upon demand by such official or officer.

Section 207. Reimbursement for Costs of Abatement Connected to Violation

(a) In the case of a fire requiring firefighters and/or firefighting equipment, and upon conviction of any violation of this Part, the violator shall also pay charges in order to cover the firefighting costs.

(b) The Board of Supervisors shall determine, by resolution, a reasonable schedule of costs based upon mileage, operating costs, and firefighting equipment and man hours. These charges shall be in addition to and not in lieu of other penalties or court-ordered restitution.

Section 208. Penalties. Any person, firm, corporation or other entity who shall violate any provision of this Part may, upon conviction thereof before a Magisterial District Judge, have prescribed by the Board of Supervisors criminal fines not to exceed one thousand dollars (\$1,000.00) per violation, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and all fees and costs incurred by the Township, fire department or forest service to extinguish the fire in violation of this Part, and may have prescribed imprisonment to the extent allowed by law for the punishment of summary offenses. Each day that a violation of this Part continues after notice shall constitute a separate offense.

SECTION 2. Amendment to Chapter IX, Part 3. Part 3, entitled "Fire Prevention Code," of Chapter IX, entitled "Fire Prevention and Fire Protection," of the Code of

Ordinances of the Township of Tilden is hereby amended and restated in its entirety as follows:

Part 3
Fire Prevention Code

Section 301. Adoption of Fire Prevention Code. That a certain document, two (2) copies of which are on file in the office of Tilden Township being marked and designated as the *International Fire Code, 2018 Edition*, including Appendix Chapters A, D, E, F, G, H, and I as published by the International Code Council, be, and is hereby adopted as the Fire Code of Tilden Township, in the Commonwealth of Pennsylvania regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Fire Code on file in the office of Tilden Township are hereby referred to, adopted and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions, and changes, prescribed in Section 302 of this Part.

Section 302. Revisions to *International Fire Code, 2018 Edition*. The following sections of the *International Fire Code, 2018 Edition* are hereby revised:

Section 101.1. Insert: "Tilden Township."

Section 110.4. Insert: "Summary Offense/One Thousand Dollars (\$1,000.00)/thirty (30) days"

Section 112.4. Insert: "Three Hundred Dollars (\$300.00) or more than One Thousand Dollars (\$1,000.00)."

Section 1103.5.3 to read:

1103.5.3 Group I-2, Condition 2. In addition to the requirements of Section 1103.5.2, existing buildings of Group I-2, Condition 2 occupancy shall be equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1. The automatic sprinkler system shall be installed as established by the adopting ordinance, no later than six (6) months following the enacted and ordained date of this ordinance.

Section 5704.2.9.6.1 to read:

Section 5704.2.9.6.1. Locations where above-ground tanks are prohibited.

Storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited, namely, the following Zoning Districts: R-1 Rural Residential, R-2 Residential, R-3 Residential, R-4 Multi-Family Residential, C-1 Neighborhood Commercial, C-2 General Commercial, C-3 Highway Commercial, L-3 Educational Industrial, OS Open Space, A Agricultural, and A-2 Intensive Agricultural Districts.

Section 5706.2.4.4 to read:

Section 5706.2.4.4. Locations where above-ground tanks are prohibited.

The storage of Class I and Class II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited, namely, the R-1 Rural Residential, R-2 Residential, R-3 Residential, R-4 Multi-Family Residential, C-1 Neighborhood Commercial, C-2 General Commercial, C-3 Highway Commercial, L-3 Educational Industrial, and OS Open Space Districts.

Section 5806.2. Limitations. Storage of flammable *cryogenic fluids* in stationary containers outside of buildings is prohibited within the limits established by law as the limits of such districts in which such storage is prohibited, namely the R-1 Rural Residential, R-2 Residential, R-3 Residential, R-4 Multi-Family Residential, C-1 Neighborhood Commercial, C-2 General Commercial, C-3 Highway Commercial, L-2 Industrial, L-3 Educational Industrial, OS Open Space, A Agricultural and A-2 Intensive Agricultural Districts.

Section 6104.2. Maximum capacity within established limits. Within the limits established by law for restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L)

Exception: In particular installations, this capacity limit shall be determined by the *fire code official*, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided, and capabilities of the local fire department.

SECTION 3. Full Force and Effect of Remaining Ordinances. The Ordinances of Tilden Township, Berks County, Pennsylvania, shall be and remain unchanged and in

full force and effect except as amended, supplemented or modified by this Ordinance. This Ordinance shall become a part of the Ordinances of Tilden Township, Berks County, Pennsylvania, upon adoption.

SECTION 4. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, legality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Township Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 5. Repealer. All ordinances or parts of ordinances of the Township which are inconsistent herewith are hereby repealed.

SECTION 6. Effective Date This Ordinance shall become effective on the earliest date permitted by law.

DULY ENACTED AND ORDAINED this 8th day of March, 2023.

**TILDEN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA**

By: Gene D. Schappell
Gene Schappell, Chairman

By: Fred Herman
Fred Herman, Vice Chairman

By: _____
Richard DeLong, Supervisor

Attest: Monica Flower
Monica Flower, Township Manager / Secretary

MUNICIPAL CERTIFICATION

I, Monica Flower, Township Manager / Secretary of Tilden Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 250-2023 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in Tilden Township and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on the 8th day of March, 2023.

[SEAL]

By:  _____
Monica Flower
Township Manager / Secretary