

ORDINANCE NO. 2001-110

AN ORDINANCE OF TUNKHANNOCK TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, PROVIDING FOR AND REGULATING THE USE OF OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATION.

SECTION 1. TITLE

This ordinance shall be known as the Tunkhannock Township Burn Ordinance.

SECTION 2. DEFINITIONS

1. BURNING 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 Secretary upon application thereof made to the Secretary or a designated person. A Burning Permit is valid for one (1) day only. A fee for each Burning Permit as established by the Board of Supervisors shall be charged.
2. COMMERCIAL RECYCLABLE MATERIALS. Clear glass containers, brown glass containers, green glass containers, aluminum cans, corrugated paper and high-grade office paper (cardboard).
3. CONTAINED FIRE. Any fire contained in an incinerator, fireplace or other contained enclosure designed for outdoor cooking, or a fireproof container.
4. CONTROLLED FIRE. Any fire not included in the definition of "Contained Fire".
5. FURNACE. Any enclosed device specifically designed for burning any material for the production of heat.
6. GARBAGE. All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
7. INCINERATOR/NON COMBUSTIBLE CONTAINER. Any device specifically designed for the destruction by burning of refuse, sewage sludge, or any combustible material.
8. OPEN FIRE. A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.
9. PERSON. Any individual, partnership, association, corporation, department, bureau, agency or legal entity.
10. REFUSE. Garbage, rubbish and trade waste.

11. RESIDENTIAL RECYCLABLE MATERIALS. Clear glass containers, brown glass containers, green glass containers, aluminum cans, bi-metal cans, plastic containers, newspapers and corrugated paper (cardboard).

12. 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.

13. RUBBISH. Solids not considered to be highly flammable or explosive, including but not limited to, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry, plastics, recyclable items and other similar items.

14. SALVAGE OPERATIONS. Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

15. 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; provided, that "trade waste" shall not include any coal refuse associated with mining or preparation of coal.

SECTION 3: REGULATIONS

1. Burning is allowed without permit during the following time specifications:

Monday through Friday 4:00 p.m. to 9:00 p.m.

Saturday 8:00 a.m. to 9:00 p.m.

Sundays Prohibited

Every contained fire or controlled burn shall be built in and confined to a non-combustible container covered with a screen of 1/2 inch or smaller mesh, or with other suitable non-combustible cover, and shall not be permitted closer than twenty-five (25) feet from any building.

2. A Burning Permit is required for all burning to occur at any times other than those specified in the above paragraph. The Burning Permit is valid for one (1) burn only. The cost of the permit fee shall be set by resolution of the Board of Supervisors.

3. The following are exceptions:

(a) Fires used for the burning of waste generated by clearing and grubbing prior to construction, as long as smoke odors, ash, or sparks and embers do not cross onto other properties;

(b) Fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation;

(c) Fire set solely for recreational or ceremonial purposes, or used only for cooking;

(d) Fire set to prevent or abate a fire hazard, when approved by PaDEP and set by or under the supervision of a public officer;

(e) Fire set for the purpose of instructing personnel in fire fighting;

(f) Fire set for the prevention and control of disease or pests;

(g) Prescribed controlled fire for the conservation and management of unique and natural areas and/or for the reduction of fuel loads;

(h) Fire used as a management technique for preventing wild fires, scientific research, or vegetation management.

4. All fires shall be attended to at all times by a responsible adult with readily available means of extinguishing the fire.

5. Fire must be extinguished thoroughly with no smoldering.

6. No burning is allowed during a Fire Ban Emergency, as proclaimed by Monroe County Emergency Management or Tunkhannock Township Board of Supervisors.

SECTION 4: UNLAWFUL SUBSTANCES

1. Burning of construction debris, aerosol cans, by-products of manufacturing and processing operations and Wastes from commercial operations is strictly prohibited.

2. Burning of residential recyclable materials and commercial recyclable materials is prohibited.

3. 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.

4. Fires shall be used only to burn readily combustible materials.

SECTION 5: FIRE BAN EMERGENCY

The Board of Supervisors may declare a fire ban emergency in Tunkhannock Township with or without consultation with the fire chiefs of the volunteer fire companies operating within the Township during period of drought, or other periods of high fire risk to woodlands or property within Tunkhannock Township.

Upon the Board of Supervisors declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors.

The Township shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation. In addition, the township may issue news releases to all communication media, including radio, television and newspapers.

SECTION 6: ENFORCEMENT

The Board of Supervisors shall appoint the Zoning Officer who shall have the power to enforce the provisions of this ordinance, or in the absence of the Zoning Officer, a Pocono Mountain Regional Police Officer.

SECTION 7: PENALTIES

It shall be unlawful to burn, ignite, incinerate, maintain or otherwise permit the burning of any materials whatsoever without complying with the requirements of this Ordinance.

Any person who shall violate any of the provisions of this Ordinance shall, upon conviction in a summary proceeding brought in the name of the Township, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not more than \$300.00, and the costs of prosecution, and in default of payment, to imprisonment for a term of not to exceed 90 days, provided that each day's violation of any of the provisions of this Ordinance shall constitute a separate offense.

SECTION 8: ADDITIONAL COSTS

1. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this Ordinance, the violator shall also pay charges in order to cover the firefighting costs. Charges shall be assessed for use of the following firefighting equipment:

(a) Pumpers and tankers.

(b) Brush busters. Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least five hundred (500) gallons capacity and an appropriate size pump.

(c) Chain saws.

2. Additional labor charges shall be assessed under this Ordinance based upon an hourly rate for all firemen engaged in the firefighting activities.

3. 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 any penalties provided elsewhere in this Ordinance.

SECTION 9: REPEALER

Tunkhannock Township Ordinance No. 99-103 and all ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 10: SEVERABILITY

If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, 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 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 11: 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 Ordinance, 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.

ATTEST: BOARD OF SUPERVISORS OF TUNKHANNOCK

THOMAS M. DELESE, Chairman

PATRICIA MOORE, Vice-Chairperson

WILLIAM BOURKE, Supervisor

Maureen Sterner, Secretary

October 3, 2001