

**ORDINANCE NO. 80**

**AN ORDINANCE IN THE TOWNSHIP OF POCONO, COUNTY OF MONROE, AND COMMONWEALTH OF PENNSYLVANIA, PROHIBITING THE ACCUMULATION OF USED TIRES ON PROPERTIES WITHIN POCONO TOWNSHIP; AUTHORIZING INSPECTIONS, COMPLIANCE NOTICES AND APPEAL HEARINGS; REQUIRING THE REMOVAL OF THE TIRES CONSTITUTING A NUISANCE OR DANGER TO THE CITIZENS; AND PRESCRIBING PENALTIES AND REMEDIES FOR VIOLATIONS.**

NOW BE IT ORDAINED AND ENACTED by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

**SECTION I: Short Title**

This Ordinance shall be known and cited as the "Used Tire Ordinance".

**SECTION II: Preface**

Recognizing the danger posed to the health, safety and welfare of Pocono Township and its citizens from the threat of fire involving accumulations of used tires, it is the purpose of this Ordinance to regulate the accumulation of such tires.

**SECTION III: Authority**

This Ordinance is authorized by, and adopted pursuant to, Sections 1517, 1527 and 1529 of the Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60) as amended.

**SECTION IV: Definitions**

- BOARD** The Board of Supervisors of Pocono Township, Monroe County, Pennsylvania.
- FIRE CHIEF** The chief of the Pocono Township Volunteer Fire Company.
- OCCUPANT** The person or persons, jointly or severally, who has control over the property on which used tires are accumulated, whether as an owner, lessee or licensee.
- OWNER** Any person or persons, jointly or severally, who, either by

conveyance, inheritance or otherwise, is vested with the title to real property and/or improvements thereto or who retains the exclusive control of such property and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

**PERSON** Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

**TOWNSHIP** The Township of Pocono, Monroe County, Pennsylvania.

**USED TIRE** A continuous solid or pneumatic rubber cushion intended to encircle a wheel that has endured use (i.e. any tire other than a new tire).

**ZONING OFFICER** Any zoning officer or alternate zoning officer duly appointed by the Board of Supervisors of Pocono Township.

#### **SECTION V: Accumulation of Used Tires Prohibited**

- A. No person shall allow, permit or have an accumulation of used tires on any property within the Township which tends to create a fire hazard.
- B. Whenever the Zoning Officer or Fire Chief determine that it reasonably appears there is an immediate danger to the life, health or safety of any person or property due to an accumulation of used tires on or in a property, the Zoning Officer shall declare such premises to be a public nuisance.

#### **SECTION VI: Inspection of Premises; Notice to Comply**

- A. The Zoning Officer and/or Fire Chief is hereby empowered to inspect private property on which used tires have been accumulated to determine if the same creates or constitutes a danger to the life, health or safety of

any person or property. If such accumulation creates or constitutes a nuisance, or poses a danger to the health, safety or welfare of the public, the zoning officer shall issue a written notice upon the owner and occupant of said premises, or, if the owners and/or occupants whereabouts or identity be unknown, by posting a notice captiously upon the offending premises.

- B. Said notice shall require the owner and/or occupant to remove or otherwise rectify the condition as set forth in the notice within fourteen (14) days of mailing or posting of said notice.

### **SECTION VII: Authority to Remedy Noncompliance**

If the owner and/or occupant of property on which used tires are accumulated in violation of this Ordinance, does not comply with the notice to abate the nuisance and remove the used tires within the time limit prescribed, the Township shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten (10%) percent of all costs. The Township in such event and pursuant to its authority or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

### **SECTION VIII: Hearing**

- A. Any person aggrieved by the decision of the Zoning Officer may request and shall be granted a hearing before the Board; provided such person files with the Board within ten (10) days after notice of the Zoning Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.
- B. After such hearing the Township shall sustain, modify or overrule the action of the zoning officer.
- C. Appeal hearings shall be conducted pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law". Any subsequent appeal shall be to the Court of Common Pleas of Monroe County, Pennsylvania.

### **SECTION IX: Penalties**

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand and 00/100

(\$1,000.00) Dollars and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

**SECTION X: Remedies Not Mutually Exclusive**

The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board.

**SECTION XI: Repealer**

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only, and no further.

**SECTION XII: 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 effect 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 that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

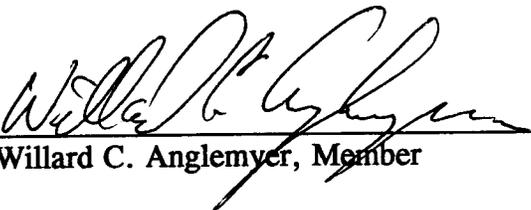
**SECTION XIII: Effective Date**

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED into an Ordinance this 24<sup>th</sup> of April, 1998 by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, in lawful session duly assembled.

BOARD OF SUPERVISORS OF POCONO TOWNSHIP

BY: \_\_\_\_\_  
John A. Smiley, Jr., Vice-Chairman

BY:   
Willard C. Anglemyer, Member

ATTEST:

  
Secretary