

**POCONO TOWNSHIP**  
**MONROE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 139**

AN ORDINANCE OF POCONO TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, PROHIBITING CERTAIN TYPES OF OPEN BURNING AS A PUBLIC NUISANCE, PROVIDING STANDARDS FOR BURNING, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Pocono, Monroe County, Pennsylvania, as follows:

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**ARTICLE I Short Title**

This Ordinance shall be known and may be cited as *THE POCONO TOWNSHIP BURNING ORDINANCE*.

**ARTICLE II Purpose**

The purpose of this Ordinance is to protect and promote the health, safety and general welfare of the citizens of Pocono Township and the public at large by regulating open burning to minimize its public health effect and environmental impacts, and to abate public nuisances associated with open burning.

**ARTICLE III Authority**

This Ordinance is ordained and enacted under the authority granted by §1506, §1529 and §1601 of the Pennsylvania Second Class Township Code, 53 P.S. §66506, §66529 and §66601.

**ARTICLE IV Nuisances Declared; Responsibility; Violation.**

- A. Any open burning which does not comply with the provisions of this Ordinance is hereby declared to be a public nuisance.
- B. It shall be the responsibility of the property owner of the premises upon which any open burning is being conducted, jointly with the person conducting such violation, to comply with the provisions of this Ordinance.
- C. Any open burning which does not comply with the provisions of this Ordinance shall be deemed to be in violation of this Ordinance. The property owner of the premises upon which any such violation is occurring, as well as with the person engaging in such violation, shall be subject to the penalties and remedies prescribed herein.

**ARTICLE V Definitions**

Bonfire - A large outdoor fire of a size larger than necessary for cooking and which is conducted for a special event or celebration by a government, school district, community based organization or other person.

Enforcement Officer - The individual(s), agency or firm appointed by the Pocono Township Board of Supervisors to enforce the provisions of this Ordinance.

Fire - The phenomenon of rapid self-sustaining chemical reaction (oxidation) usually accompanied by the evolution of light and heat.

Fire Company - The Pocono Township Volunteer Fire Company or any fire company that has a mutual aid agreement with the Pocono Township Volunteer Fire Company.

Natural Wood - 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.

Open Burning - Any outdoor fire wherein the products of combustion are emitted to the open air which is not exempted by §6.2,A or permitted by §6.2,B of this Ordinance .

Owner - The person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Monroe County Recorder of Deeds. In the case where an owner is represented by an agent, including but not limited to a manager, executor, executrix, administrator, administratrix, or guardian of the estate of the owner, such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Person - An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other legal entity.

Police Officer - A duly appointed Police Officer of the Pocono Township Police Department, any police department that has a mutual aid agreement with the Pocono Township Police Department, or the Pennsylvania State Police.

Property - A piece, parcel, lot or tract of land.

Township - The Township of Pocono, Monroe County, Pennsylvania.

**ARTICLE VI Requirements**

**§6.1. Prohibition; Hours for Open Burning; Extinguishment**

- A. Prohibition - It shall be unlawful for any person to intentionally burn, ignite, incinerate, or allow to burn, ignite, or incinerate, any and all materials, the burning of which shall emit noxious fumes, smoke, ash or other material, or to cause and allow an open fire to be maintained, except in strict conformity with this Ordinance. Any person violating any provision of this Ordinance shall be subject to the penalties herein provided.
- B. Hours for Open Burning - Open burning shall only be permitted on Saturdays between the hours of 7:00 A.M. and 2:00 P.M. and on Wednesdays between the hours of 5:00 P.M. and 9:00 P.M., and such fires shall be fully extinguished no later than 2:00 P.M. on Saturdays and 9:00 P.M. on Wednesdays. Bonfires may be conducted at other hours in accord with the permit issued by the Township in accord with §6.2,B.
- C. Extinguishment - Any fire permitted to burn in an unsafe manner, under adverse weather conditions, unsupervised, or otherwise in violation of this Ordinance, or determined unsafe or a nuisance by the Enforcement Officer, a Police Officer, or an Official of the Fire Company shall be extinguished immediately upon demand by

such Officer or Official, or may be extinguished as necessary by the Township or any fire company.

### §6.2. Exemptions; Bonfires.

#### A. Exemptions - Nothing herein shall prohibit:

1. Cooking and Heating - Any burning conducted wholly within the confines of a permanent structure intended for the habitation of human beings, and said fire or burning is used for cooking purposes or for heating said structure.
2. Outdoor Cooking - Any burning, the sole purpose of which is to cook or prepare food, provided that said fire is confined in a fireplace, cooking grill or other container designed for outdoor cooking.
3. Fire Fighting Training - Any burning conducted solely for the purpose of fire-fighter and/or rescue personnel training by the Fire Company.
4. Outdoor Furnace - The use of an outdoor furnace as defined by and in compliance with the Pocono Township Outdoor Furnace Ordinance.

B. Bonfires - Bonfires conducted by a government, school district, community based organization or other person shall be permitted provided such bonfire is conducted in accord with this Ordinance and a permit has been issued by the Township. The bonfire shall be fully extinguished at the time specified on the permit.

### §6.3. Standards Applicable to All Burning.

The following standards shall apply to all fires, burning, and incineration in the Township.

#### A. Prohibited Materials - All waste products shall be disposed of in accord with Pennsylvania Department of Environmental Protection Rules and Regulations; and, the intentional burning of any of the following materials shall be prohibited in the Township:

1. Any material accepted at the Township recycling center including, but not limited to, office paper, magazines, newsprint, corrugated paper (cardboard), aluminum cans, steel and bi-metallic cans, and plastic containers.
2. Any other paper products which contain inks or are coated with plastic, wax or similar material.
3. Solid or liquid household waste except for readily combustible wood and paper products.
4. Construction and demolition waste, insulation, shingles, or treated wood.
5. Paint, or painted or stained objects.
6. Furniture, mattresses, or box springs.
7. Plastic, styrofoam, rubber, fiberglass, insulating coating on wire, or PVC products.
8. Metal, television sets and appliances, vehicles and vehicle parts.
9. Batteries
10. Waste oil or other petroleum products, or excessive amounts of accelerants.
11. Tires.
12. Animal matter or offal, by-products or waste materials generated by any production process.
13. Diapers
14. Any other material the burning of which can produce noxious or hazardous smoke or fumes.

B. Permitted Materials - Grass, brush, branches, leaves, and natural wood may be burned within the Township only if such items are generated on the property on which the burning is conducted.

C. Local, State, and Federal Regulations - All burning, including, but not limited to, burning associated with any production, manufacturing, salvage or reclamation process, shall be conducted only in accord with all applicable local, state, and federal regulations, including but not limited to, the Township Zoning Ordinance; the Air Pollution Control Act of the Commonwealth of Pennsylvania, P.L. 2119 and the provisions thereof, as well as

the regulations of the Pennsylvania Department of Environmental Protection, as pertaining to said act; and the United States Environmental Protection Agency regulations; all of which are incorporated in this Ordinance by reference.

- D. Unattended Burning - No fire shall be set or maintained without a responsible adult being present at all times.
- E. Public Property - No fire shall be set or maintained on any public road except for municipal or state purposes.
- F. Endangerment - No fire shall be set or maintained that may endanger any building or property.
- G. Fire Control Equipment - When any open burning is conducted in accord with this Ordinance, the person responsible for said burning shall maintain at the site any and all equipment appropriate and adequate to contain and control the burning being conducted. Such equipment may, for example, include a charged hose, fire extinguisher, Indian tanks, shovels or rakes.
- H. Lot Clearing - Any trees, branches, brush or other vegetation associated with the clearing of a lot shall be removed from the site, or may be chipped and be deposited on the lot.

#### §6.4. Open Burning.

In addition to the standards contained in §6.3, the following additional standards shall apply to all outdoor fires.

- A. Burning Ban - No open burning shall be permitted when drought, weather or other conditions present an unusual fire risk or when a ban on burning has been instituted by the Township or an agency of the Commonwealth of Pennsylvania. The Township Board of Supervisors in consultation with the Fire Chief, shall have the right to institute a ban on all open burning in the Township when such unusual fire risk warrants a ban. Notice of such restriction shall be given by notice in a paper of general circulation and by posting a notice at the Township office, or by giving such other notice as the Township shall deem appropriate.
- B. Setbacks - All open burning shall be conducted within the confines of the lot and no open burning shall be permitted within twenty (20) feet of any building, or on any public or private road or road shoulder except as conducted by Township employees.

#### ARTICLE VII Permits

A permit issued by the Township shall be required for the all open burning allowed by this Ordinance, except that a permit shall not be required for the burning of leaves. Nevertheless, the burning of leaves shall comply with the hours for open burning in §6.1,B and all other requirements of this Ordinance. Any person proposing to set an open fire which requires a permit shall obtain the permit prior to setting the fire. The permit fee, if any, shall be set by resolution of the Board of Supervisors.

#### ARTICLE VIII Enforcement Officer; Compliance; Violations and penalties; Other Remedies; Action to Abate

##### §8.1. Enforcement Officer

The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Ordinance. The terms of the Ordinance may also be enforced by a Police Officer or an Official of the Fire Company.

##### §8.2. Compliance.

Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to abate a nuisance, shall constitute a violation of this Ordinance.

##### §8.3. Violations and Penalties.

This Ordinance shall be enforced by action brought before a District Magisterial Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person,

partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Ordinance shall, upon conviction in a summary proceeding, pay a fine of not less than \$500 nor more than \$1,000 per violation, plus all Court costs and reasonable attorneys fees incurred by Pocono Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Each section of this Ordinance that is violated shall also constitute a separate violation. Further, the appropriate officers or agents of Pocono Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Ordinance. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to Pocono Township for its general use.

**§8.4. Other Remedies.**

In addition to the fines, judgments, and/or imprisonment remedies of §8.3, the Board reserves the right to pursue independent and cumulative remedies at law or equity including a demand for reimbursement of all court costs and reasonable attorney fees.

**§8.5. Abatement by Township and Recovery of Costs.**

In addition, if the owner or person in control of any premises at which an act or condition constituting a violation of this Ordinance is occurring, fails to respond to an order of compliance, the Enforcement Officer and/or the Police Officer and/or fire Company Official shall be empowered to cause such compliance to be commenced and/or completed by the Township, and the Township may enter a municipal lien upon the premises to recover the cost and expense thereof.

**ARTICLE IX Repealer**

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**ARTICLE X 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 Pocono Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**ARTICLE XI Municipal Liability**

Pocono Township, and its agents, officials and representatives shall not under any circumstances be liable or legally responsible for activities or conditions which constitute a nuisance under the terms of this Ordinance. Any liability or damages resulting from activities or conditions constituting a nuisance are the sole responsibility of the owner of the property, and/or the person or persons responsible for said activity or condition. The failure to enforce the terms of this Ordinance shall not constitute a cause of action against Pocono Township or its agents, officials or representatives.

**ARTICLE XII Effective Date**

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

ENACTED AND ORDAINED into law by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, this 6th day of April of 2009.

Jane Ciorso  
Chairman

Donald W. ...  
Vice-Chairman

John T. Bramley  
Supervisor

ATTEST: Denise ...