

**POLK TOWNSHIP, MONROE COUNTY, PENNSYLVANIA
ORDINANCE NO. 02 OF 2018**

**AN ORDINANCE AMENDING ORDINANCE NO. 1 OF 2011, THE POLK TOWNSHIP
OPEN BURNING ORDINANCE**

WHEREAS, on June 27, 2011, the Polk Township Board of Supervisors adopted an Open Burning Ordinance being Ordinance No. 1 of 2011; and

WHEREAS, the Board of Supervisors wishes to amend the Ordinance to permit the Supervisors to specifically designate recyclable materials that are accepted by the Polk Township Recycling Program as opposed to a fixed list set forth in said Ordinance, make unlawful burning of leaves and require notification to the Polk Township Volunteer Fire Department in the case of certain fires; and

WHEREAS, the Board of Supervisors is permitted to amend an Ordinance in accordance with the Second Class Township Code.

NOW, THEREFORE, be it ENACTED and ORDAINED as follows:

Section 1. Section 6 (a) of the Polk Township Ordinance No. 1 of 2011 is deleted in its entirety and replaced with the following:

“Any and all recyclable materials that are accepted by the Polk Township Recycling Program shall be set forth in a Resolution to be adopted by the Polk Township Board of Supervisors which shall specifically reference the within Ordinance, and which may be periodically revised from time to time.”

Section 2. Schedule “A” of the Ordinance is deleted in its entirety.

Section 3. Section 7 (d) of the Ordinance is amended to eliminate reference to leaves and brush as the materials that may be open burned. Section 7 (d) shall now read as follows:

“Open Burning shall be confined in a non-combustible container, covered with a wire screen of one-half inch or smaller mesh, or another suitable non-combustible container, except for burning of

natural untreated wood which need not be confined to non-combustible container covered with a wire screen.”

Section 4. Section 7 (f) of the Ordinance is amended to delete reference to leaves and brush as materials that may be burned in an open fire. Section 7 (f) will now read as follows:

“Only untreated wood may be burned in an open fire if such materials are generated by the property in which such burning occurs. Under no circumstances shall such materials be brought from other premises to such property for open burning.”

Section 5. Section 11 (g) is deleted in its entirety.

Section 6. Section 11 (i) is deleted in its entirety and replaced with the following:

“Persons responsible for any large fires shall contact the Polk Township Fire Department to provide the rate, time and location of the fire. The contact information for the Polk Township Fire Department is available at the Polk Township Office.”

Section 7. This Ordinance shall be effective immediately.

ENACTED and ORDAINED at a regular meeting of the Polk Township Board of

Supervisors held the 22nd day of January, 2018.

POLK TOWNSHIP BOARD OF SUPERVISORS

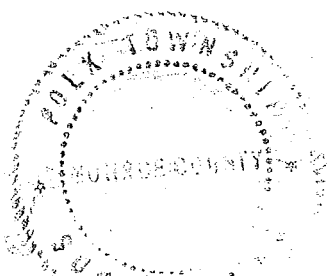
By: Brian K. Ahner
Brian K. Ahner, Chairman

By: Michael D. Hurley
Michael D. Hurley, Vice-Chairman

By: Carl S. Heckman
Carl S. Heckman

ATTEST:

Ruthanne K. Toner
Ruthanne K. Toner, Secretary



Copy

Outdoor and Open Burning Ordinance for Polk Township, Monroe County Pennsylvania.

ORDINANCE 1 of 2011

AN ORDINANCE OF POLK TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND WELFARE AND TO SAFEGUARD THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE TOWNSHIP BY REGULATING THE AIR POLLUTION AND FIRE HAZARDS OF OPEN BURNING AND OUTDOOR BURNING, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES OR SECTIONS OF ORDINANCES INCONSISTENT HEREWITH.

BE IT ORDAINED AND ENACTED BY THE SUPERVISORS OF POLK TOWNSHIP, And It Is Hereby Ordained And Enacted By The Authority Of The Same.

TITLE

**This ordinance shall be known and cited as
"POLK TOWNSHIP OPEN BURNING ORDINANCE"**

SECTION 1: PURPOSE

Open burning of materials can pose a threat to life and property in Polk Township if not properly controlled. Such burning can cause air pollution which can have detrimental effects on resident's health. Such burning can spread and cause damage and possible loss of life to other properties and their owners. It is the purpose of this Ordinance to prevent and control air pollution, promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Polk Township by regulating the air pollution and fire hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

This Ordinance applies to all outdoor burning and open burning within Polk Township.

(a) This Ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

(b) This Ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3: DEFINITIONS

The following words, terms, and phrases, when used in this Ordinance unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

(a) **BURNING** - the act of consuming by fire; to flame, char, scorch or blaze.

(b) **CAMPFIRE** - means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

(c) **CLEARING AND GRUBBING WASTE** - trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction, not including demolition waste and dirt laden roots.

(d) **CLEAN WOOD** - means 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.

(e) **CONSTRUCTION AND DEMOLITION WASTE** - means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

(f) **DESIGNATED RECYCLABLES** - those recyclable materials specified by Polk Township for collection under its recycling program.

(g) **DOMESTIC REFUSE** - waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, putrescible waste, solvents, tires, or treated wood.

(h) **ENFORCEMENT OFFICER** - An individual who shall be appointed by the Polk Township Supervisors or the Polk Township Codes Enforcement Officer.

(i) **GARBAGE** - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

(j) LEAF WASTE - shall mean leaves from trees, bushes and other plants, garden residue, shrubbery and tree trimmings and similar materials, but not including grass clippings.

(k) MUNICIPAL WASTE - any garbage, refuse, industrial, lunchroom or office waste and other materials, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments, or from community activities and which are not classified as residual or hazardous waste, except farm produced manure, other agricultural waste and food processing waste used on land where such materials will improve the condition of the soil, the growth of crops or the restoration of the land for the same purposes, and any sludge not meeting the definition of "residual or hazardous waste," as defined in Commonwealth of Pennsylvania Solid Waste Management Act. The term does not include source-separated recyclable materials or leaf waste.

(l) MUNICIPALITY - a city, incorporated town, township, borough, county, municipal authority, or other public body created under State law having jurisdiction over the disposal of sewage, industrial wastes, or other wastes.

(m) OPEN BURNING - means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

(n) PERSON - any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth or the Federal Government, political subdivision, district authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In any provisions of this Ordinance prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors.

(o) 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.

(p) REFUSE - Garbage, rubbish and trade waste.

(q) STREETS - the inclusive term for streets, alleys, avenues, highways, courts, lanes and any other public property opened to passage by vehicle or pedestrian traffic.

(r) TOWNSHIP - Polk Township, Monroe County, Pennsylvania.

(s) WASTE - a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source-separated recyclable materials, leaf waste or material approved by

the Commonwealth of Pennsylvania, Department of Environmental Protection for beneficial use.

SECTION 4: OPEN BURNING

(a) It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, or whatever nature, without complying with this Ordinance.

(b) Open burning, provided that it is not contrary to this Ordinance or any other law, will be allowed upon lots containing one half acre or more, but not within the confines of a mobile home park.

SECTION 5: PUBLIC ROADS AND PUBLIC PROPERTIES

No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Polk Township, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such a fire.

SECTION 6: UNLAWFUL SUBSTANCES

It shall be and is hereby declared unlawful for any person or entity to burn or permit to be burned any unlawful materials for which the burning is regulated by state or federal law, statutes or regulations, and in addition, as set forth, the following:

(a) Any and all recyclable materials that are accepted by the Polk Township Recycling Program as set forth in Schedule "A" hereto. Supervisors may from time to time, by Resolution, add or delete materials from said schedule.

(b) Construction debris, plastics, tires, rubber, fiberglass materials, aerosol containers.

(c) Byproducts of manufacturing and processing operations, and wastes from commercial operations.

(d) Garbage, domestic waste, or offal.

(e) 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 person if such burning is in violation of the Air Pollution Control Act or other legislation of the Commonwealth of Pennsylvania or the United States of America or any other competent body.

SECTION 7: CONTROL OF BURNING AND UNATTENDED FIRES

(a) Open burning shall be constantly attended and supervised by a competent responsible adult of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire. Such fire extinguishing equipment shall include, at a minimum, a pressurized water hose immediately adjacent to the burn site and/or a fire extinguisher.

(b) No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body. The Board of Supervisors may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.

(c) No fire shall be set that results in uncontrolled burning of vegetation (field fire).

(d) Open burning shall be confined in a non-combustible container, covered with a wire screen of one-half inch or smaller mesh, or in other suitable non-combustible container, except for burning of leaves, brush, and/or natural, untreated wood which need not be confined to non-combustible container or covered with a wire screen.

(e) All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations. Open burning shall be conducted in conformance with all local and state fire protection regulations.

(f) Only leaves, brush, and untreated wood may be burned in an open fire if such materials are generated by the property on which such open burning occurs. Under no circumstances shall such materials be brought from other premises to such property for open burning.

SECTION 8: SAFE DISTANCES

(a) No fire shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the fire company for training purposes.

(b) Open burning shall be permitted only upon private property and shall take place at least fifty (50) feet from a building, property line, or road line.

(c) Nothing herein shall be deemed to prohibit indoor or outdoor cooking activities providing that reasonable safeguards are maintained.

(d) Existing burn barrel shall be relocated so as to comply with this provision of the Ordinance.

SECTION 9: EXTINGUISHING UNSAFE FIRES

It is a violation of this Ordinance for any person to allow any fire to burn under adverse weather conditions or unsupervised, or otherwise in an unsafe manner. Any such fire may be extinguished by an official of the Township or a designee of the Polk Township Fire Company or be extinguished immediately upon request of such official.

SECTION 10: TIME RESTRICTIONS

(a) No person shall burn or cause to be burned any kind of substance or maintain any fire, or burn or cause to be burned an uncontained fire of any substance or material of any kind, out-of-doors, anywhere in the Township between sunset and sunrise.

(b) Campfires using natural untreated wood and containing a fuel source of no more than eight (8) cubic feet are permitted at any time so long as they comply with all other provisions of this ordinance.

SECTION 11: EXEMPT FIRES

The following types of fires which do not burn Unlawful Materials are allowed provided the following conditions are met and that open burning of materials does not create a safety hazard or nuisance.

(a) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of a public officer.

(b) Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.

(c) A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program office.

(d) A fire set for the purpose of burning, clearing and grubbing waste. If within an air basin an air curtain destructor must be used and must be approved by the Department of Environmental Protection's Regional Air Quality Program office.

(e) A fire set in conjunction with the production of the agricultural commodities in their unaltered state on the premises of the farm operation.

(g) A fire set for the purpose of burning that amount of leaf waste generated from the premises of a structure occupied solely as a dwelling by two families or less, when the fire is on the premises of said structure.

(h) A fire set solely for cooking food, outdoor campfires and small bonfires for ceremonies or recreation are allowed provided they do not cause a nuisance.

(i) Persons responsible for any large fires are encouraged to contact the Monroe County Control Center and provide the time and location of the fire.

SECTION 12: FIRE BAN EMERGENCY

The Board of Supervisors may declare a fire ban emergency in Polk Township with or without consultation with the Fire Chiefs of the Polk Township Fire Company during period of drought, or other periods of high fire risk to woodlands or property within Polk Township.

SECTION 13: RESPONSIBILITY OF OWNERS AND OPERATORS

Whenever the enforcing officer finds that open burning is occurring in the Township, other than those exceptions noted in Section V above, the enforcing officer may order the owner or operator to take corrective action in a manner satisfactory to the Township or the enforcing officer may order the owner or operator to allow access to the land by the enforcing officer or a third party to take such action.

SECTION 14: UNLAWFUL CONDUCT

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this Ordinance or to fail to comply with any order or other requirement of the Township; or to cause a public nuisance; or to cause air, soil, or water pollution resulting from an open burning incident; or to hinder, obstruct, prevent, or interfere with the Township or its personnel in their performance of any duty hereunder, including denying the enforcing officer access to the source or facility; or to violate the provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or §4904 (relating to unsworn falsification to authorities) in regard to papers required to be submitted under this section. The owner or operator of an open burning source shall not allow pollution of the air, water, or other natural resources of the Township to result from the source.

SECTION 15: SPECIAL CIRCUMSTANCES

In the event that it is necessary to have an uncontained fire of any size and/or at time other than permitted under this Ordinance, special permission must be obtained, in writing, in advance of setting said fire, from the Polk Township Board of Supervisors.

SECTION 16: REPEALER

All other ordinances or parts thereof which are in conflict with this Ordinance are hereby repealed.

SECTION 17: VIOLATIONS AND PENALTIES

Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$300.00, per day plus costs of prosecution and additional costs as described in Section 7 below. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 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 Ordinance that is violated shall also constitute a separate offense. The provisions of this Ordinance shall be enforced by the Enforcement Officer appointed by the Polk Township Supervisors.

SECTION 18: ASSESSMENT OF ADDITIONAL COSTS

In the event any Fire Company (fire fighters and/equipment) is required to respond to a fire which violates the provisions of this Ordinance and upon conviction of any violation of this Ordinance, the violator shall also pay charges in order to cover the fire-fighting costs. Charges shall be assessed for use of fire-fighting equipment and labor charges based upon an hourly rate for all firemen engaged in extinguishing said fire.

The Board of Supervisors shall determine by resolution a reasonable schedule of costs based upon charges calculated by the Fire Chief or His designee including, but not limited to: mileage, operating costs and fire-fighting equipment and man-hours of participants. These charges shall be in addition to and not in lieu of any penalties provided elsewhere by.

SECTION 19: LIABILITY

The Township of Polk 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 provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this Ordinance. The individual person or party responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

SECTION 20: EFFECTIVE DATE

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

ORDAINED AND ENACTED at a regular meeting of the Township of Polk, Monroe

County, Pennsylvania, this 27th day of June, 2011.

**POLK TOWNSHIP
BOARD OF SUPERVISORS**



Brian K. Ahner, Chairman



Michael D. Hurley, Vice-Chairman



Nancy C. May, Secretary

Attest:



Nancy C. May, Secretary