

**POCOPSON TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO.**

**AN ORDINANCE OF POCOPSON TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 35 OF THE POCOPSON TOWNSHIP CODE, TITLED "BURNING, OPEN" TO AMEND THE REGULATIONS GOVERNING OPEN BURNING WITHIN THE TOWNSHIP, AND OTHER MISCELLANEOUS PROVISIONS CONTAINED HEREIN.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Pocopson Township as follows:

**SECTION 1.** Chapter 35 of the Pocopson Township Code, titled, "Burning, Open" shall be deleted in its entirety and a new Chapter 35, "Burning, Open", shall be adopted to read as follows:

**CHAPTER 35- BURNING, OPEN.**

**§ 35-1-Definitions.** As used in this chapter, the following terms shall have the meanings indicated:

**CONTROL FIRE** - A fire kindled for the purpose of recognized silviculture, range or wildlife management, or control of disease or pests.

**MUNICIPAL WASTE**- Any garbage, refuse, industrial lunchroom or office waste and other material, including, but not limited to, solid, liquid, semisolid or gaseous material, resulting from the operations of residential, municipal, commercial or institutional establishments or from community activities. It also includes any sludge not meeting the definition of residential or hazardous waste in the Solid Waste Management Act, of July 7 1980, P.L. 380, No. 97, as amended, 35 P.S. § 6018.101 et seq., from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials, leaf waste, chipped material, or household hazardous waste.

**PERSON** - Any natural person, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

**RECREATIONAL FIRE** – An outdoor contained fire fueled by wood, twigs, branches, or charcoal, but in no case municipal waste or recyclable materials, and which is used to cook food for human consumption or for warmth.

**RECYCLABLE MATERIALS**- Those materials specified by Pocopson Township for collection in accordance with this Code and recycling regulations which may be promulgated from time to time. Such material may include, but shall not be limited to, food and beverage containers of aluminum, metal or bi-metal, clear and colored glass, plastic, phone books, magazines, high-grade office paper, mixed paper, newspaper and corrugated cardboard.

**§ 35-2 Prohibited burning.**

- A. It shall be unlawful for any person to intentionally, maliciously or negligently burn, or cause, permit or authorize to be burned, municipal waste, recyclable materials, plastics, rubber, oil-based materials, noncombustible materials or any material which when burned emits noxious, offensive or harmful smoke, odor or fumes.
- B. It shall be unlawful for any person to intentionally, maliciously or negligently burn, or cause, permit or authorize to be burned, leaves, brush, grass or wood out of doors in open fires anywhere within the Township, unless such burning is performed in compliance with the terms of this chapter.

**§ 35-3 Conditions.**

All outdoor burning, except recreational fires, in open fires of leaves, brush, grass or wood shall be performed only in compliance with the following conditions:

- A. The burning shall be located at least 50 feet from any and all property boundary lines, buildings, structures of any kind, public roads, curbs, sidewalks, utility poles and other combustible materials.
- B. The burning shall be performed only between the hours of sunrise and sunset.
- C. A responsible adult, 18 years of age or older, shall be in attendance during the entire duration of the burning.
- D. A connected hose or other ample water supply capable of extinguishing the fire is present.
- E. There is an area cleared of all combustible material of a radius of 15 feet.
- F. The Chester County Fire Board is notified prior to ignition.

**§ 35-4 Recreational fires.**

- A. Recreational fires shall not be greater than ten feet in diameter or two feet in height.

- B. Recreational fires shall not be conducted within 25 feet of a structure, property boundary or combustible material.

**§ 35-5 Permission of property owner required.**

It shall be unlawful to light or otherwise kindle fire upon the land of another without the permission of the owner thereof, which permission, except in the case of a family member or employee, shall be in writing.

**§ 35-6 Fires during drought.**

It shall be unlawful for any person to light or attempt to light or to cause, permit or authorize another to light or attempt to light or otherwise kindle any outdoor fire when a ban on such fires has been publicly announced by the Commonwealth of Pennsylvania, Chester County or Township Supervisors or their authorized representatives in a time of drought.

**§ 35-7 Extinguishment of dangerous or nuisance fires.**

Any fire on public or private property may be extinguished by the local fire company having jurisdiction, either with or without the consent of the landowner or person in charge, if, in the opinion of a police officer, fire personnel, fire marshal or the Codes Enforcement Officer or his designee, such fire constitutes a danger to persons or property.

**§ 35-8 Violations and penalties.**

Any person violating or permitting the violation of this chapter shall, upon being found liable therefore in a criminal enforcement proceeding, pay a fine of not more than \$1,000 nor less than \$25, together with court costs and reasonable attorneys fees, and may be incarcerated for a period not exceeding 90 days. Such fine, costs, attorney fees and incarceration, after being reduced to a final, unappealed judgment, shall be enforced by the Township pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.

**SECTION 2. 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 hereof. It is hereby declared as the intent of the Board of Supervisors of Pocopson Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**SECTION 3. REPEALER.** All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 4. GENERAL CODE.** General Code is hereby authorized to make non-substantive formatting and numbering changes necessary to clarify references to other sections of the Pocopson Township ordinances and/or codification and to bring the Ordinance into conformity with the Pocopson Township ordinances/codification.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective in five days.

**ENACTED AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**ATTEST:**

**BOARD OF SUPERVISORS  
POCOPSON TOWNSHIP**

\_\_\_\_\_  
Susan Simone, Secretary

\_\_\_\_\_  
Ricki Stumpo, Chairman

\_\_\_\_\_  
Elaine DiMonte, Vice-Chairman

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Alice J. Balsama, Member