

ORDINANCE NO. 128

**AN ORDINANCE ESTABLISHING REGULATIONS CONCERNING BURNING AND OPEN FIRES, PROVIDING FOR PENALTIES FOR VIOLATING SAME, AND REPEALING PRIOR ORDINANCES.**

WHEREAS, management or prohibition of open fires and burning, which may cause structure fires, death, and/or injury to persons or property is necessary to maintain and preserve the public safety, health and welfare; and

WHEREAS, regulating burning or open fires is within the general police powers of West Cocalico Township and the powers expressly granted by statute to Townships of the Second Class such as West Cocalico Township, pursuant to Title 53 P.S. §66572; and

WHEREAS, changing circumstances have caused prior ordinances to become insufficient.

NOW THEREFORE, this 16<sup>th</sup> day of June 2015, BE IT ORDAINED AND ENACTED by the Board of Supervisors of West Cocalico Township, Lancaster County, Pennsylvania, as follows:

**SECTION 1. NAME** - This Ordinance shall be known as the "West Cocalico Township Open Fire and Burning Ordinance."

**SECTION 2. DEFINITIONS -**

A. Building: any man-made structure intended for the enclosure of personal property, animals, or for occupation by any person.

B. Burning: the combustion of fuel or material outside of a building in a commercially constructed incinerator or metal container designed to contain fire or incineration and approved by a nationally recognized agency or code.

C. Township Fire Department: either the Reinholds Volunteer Fire Department or the Shoeneck Volunteer Fire Department.

D. Open Fire: the combustion or ignition of any material, waste, wood, scrap, plant or structure outside of, or without containment in, an incinerator or metal container designed to contain fire or incineration and approved by a nationally recognized agency or code.

E. Permit: a form prepared by West Cocalico Township, which form may be changed from time to time by a resolution of the Board of Supervisors. A permit may be issued for one open fire or burning, a day or days, or for an indefinite period of time, at the discretion of the official issuing same, taking into consideration all of the applicable circumstances.

F. Person: any individual, landlord, tenant, partnership, association, corporation, limited liability company or other legal entity.

### **SECTION 3. PROHIBITED ACTS -**

It shall constitute a violation of this Ordinance for any person to cause or permit on any lot, parcel, land or property, an open fire or burning under the following circumstances unless specifically allowed by permit:

- A. During any period of time when an outdoor fire hazard emergency has been declared by any legally constituted authority; or
- B. Without an "Open Fire or Burning Permit" issued by either the Manager of West Cocalico Township, a Township employee or agent assigned by the Manager to issue such permits, or the Fire Chief of any Township Fire Department; or
- C. When said open fire or burning is between the time of sunset and sunrise; or
- D. If such Open Fire or Burning is within 100 feet from any building of any kind or character whatsoever regardless of whether or not the fire is in its original location or has spread to a point within 100 feet of any building unless it is Burning as defined herein and expressly allowed by permit; or
- E. Burning in other than a commercially constructed incinerator or one that has been approved by either a nationally recognized agency or code, except burning in an intact steel or galvanized drum or barrel covered with a metal lid with holes no larger than 1/2 inch or by 1/2 inch metal mesh; or
- F. Without constant supervision by a person 16 years of age or older; or
- G. When, despite compliance with the foregoing, the open fire or burning might, in the opinion of a reasonably prudent adult, considering such conditions as the type and quantity of material being burned, wind velocity or direction, drought or dry weather conditions, the proximity to highly flammable materials or plants such as evergreens, dry pasture, grass, or dry crops, and/or the type of material from which any structure in proximity to the fire has been constructed, creates a reasonable possibility of the uncontrollable spreading of an Open Fire or ignition of trees, crops, plants or structure, unless specifically preapproved by the Fire Chief or his designee of any Township Fire Department.

### **SECTION 4. EXEMPTIONS -**

- A. Open Fires may be ignited without a permit in the performance of any official duty of any public office if such open fire is necessary for:
  - 1. The prevention, limitation, control, or to extinguish a fire hazard that cannot be abated by other means; and
  - 2. The protection of the public health, safety or welfare.
- B. Open Fires or Burning shall be permitted for firefighting training by Township Fire Departments.
- C. Burning conducted in a commercially constructed or masonry-constructed grill or barbeque pit if for the purpose of cooking or preparing food.

D. Bonfires and recreational fires, provided that such Open Fires or Burning is: conducted by a recognized group or organization in the Township; constantly supervised; and properly and extinguished at the completion of its use. A permit for limited or unlimited periods of time rather than on a per fire basis shall be required for bonfires and recreational fires.

E. Burning of rubbish or household waste provided: the burning is constantly supervised; is only conducted between the hours of sun-rise and sunset; is conducted more than 100 feet from any dwelling other than that of the person doing the burning; unusual conditions do not render such burning specially hazardous; and the rubbish or household waste does not contain any hazardous materials, carcasses, tires, or explosive materials.

#### **SECTION 5. COMBUSTIBLES -**

It shall constitute a violation of this Ordinance for any person to deposit hot ashes, smoldering coals, embers, explosives, or any materials liable to spontaneously combust or explode on any property which such person does not own or lawfully occupy. Further, any hot ashes, smoldering coals, or embers shall be considered an Open Fire and therefore subject to the Prohibited Acts listed above.

#### **SECTION 6. PERMISSION -**

It shall constitute a violation of this Ordinance for any person to ignite or maintain any bonfire or recreational open fire on any property not owned by such person without the written consent of the owner of the property. No permit shall be issued without written proof of permission.

#### **SECTION 7. REMEDIATION -**

This Ordinance may be enforced by any duly appointed person, agency or entity, including, but not limited to the police department having been duly chosen by the Board of Supervisors to provide police protection within West Cocalico Township and any Township Fire Chief. Any person who shall be ordered to extinguish any Open Fire or Burning by any Police Officer, Township Fire Chief, Township Fire Police Officer, Township Supervisor or Township Manager as a result of such person conducting or maintaining an Open Fire or Burning in violation of this Ordinance shall immediately take such actions as are necessary, or ordered by an official named above, to extinguish same.

#### **SECTION 8. PENALTIES -**

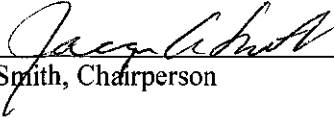
Any person who violates any provision of this Ordinance commits a summary offense and shall, upon a conviction resulting from such violation, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) plus costs and restitution. Each day of violation shall constitute a separate offense. Conviction of a second violation shall result in a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) Conviction for a third or subsequent violation thereof shall result in a fine of One Thousand Dollars (\$1,000.00) for each day of such violation plus costs and restitution.

#### **SECTION 9. REPEALER-**

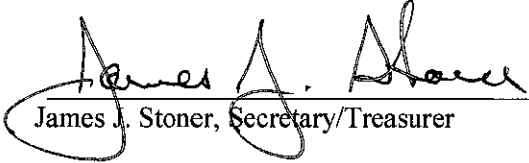
Upon taking effect, this Ordinance shall repeal any prior Open Fire or Burning Ordinance of West Cocalico Township, specifically including Ordinances #25 and #28 or any portion of any Ordinance inconsistent with this Ordinance except where a prosecution of a violation of a prior ordinance shall be in progress.

**SECTION 10. EFFECTIVE DATE -**

This Ordinance shall take effect five (5) days after enactment.

  
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Jacque Smith, Chairperson

  
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Terry Scheetz, Vice Chairperson

  
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James J. Stoner, Secretary/Treasurer