

#637

**AN ORDINANCE OF THE BOROUGH OF TAMAQUA,
SCHUYLKILL COUNTY, PENNSYLVANIA REGULATING
OUTDOOR REFUSE AND OPEN BURNING WITHIN THE
BOROUGH OF TAMAQUA.**

SECTION I. PURPOSE

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Borough of Tamaqua, due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

SECTION II. APPLICABILITY

This ordinance applies to all outdoor burning and refuse burning within the Borough of Tamaqua.

1. This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
2. This ordinance does not apply to burning in a stove, furnace, fireplace, solid fuel burning appliances, external heating devices or other heating devices within a building used for human or animal habitation unless the material being burned includes refuse as defined in the DEFINITIONS section of this ordinance.
3. 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 III. DEFINITIONS

1. "Campfire" means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.
2. "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.
3. "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.
4. "Fire Chief" means the Chief of the Borough of Tamaqua Fire Department or other person authorized by the Fire Chief.
5. "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
6. "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 from an enclosed chimney.
7. "Patio wood-burning unit" means a chimney, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
8. "Refuse" means any waste material except clean wood.

**SECTION IV. GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR
BURNING AND REFUSE BURNING**

General prohibition on outdoor burning and refuse burning. Open burning, outdoor burning

and refuse burning are prohibited in the Borough of Tamaqua unless the burning is specifically permitted by this ordinance.

SECTION V. MATERIALS THAT MAY NOT BE BURNED

1. The following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. The Borough of Tamaqua will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Pennsylvania Department of Environmental Protection.
2. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
3. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Pennsylvania Department of Environmental Protection Code.
4. Asphalt and products containing asphalt.
5. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
6. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
7. Rubber including tires and synthetic rubber-like products.
8. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the Borough of Tamaqua Recycling Ordinance.

SECTION VI. OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS

Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions:

1. All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and 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.
2. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief, or the County of Schuylkill, or the Commonwealth of Pennsylvania ban applicable to the area.
3. Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the Pennsylvania Department of Environmental Protection and the Fire Chief.
4. Unless explicitly allowed elsewhere in this ordinance, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the Pennsylvania Department of Environmental Protection and the Fire Chief.
5. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

6. Fires set for forest or wildlife habitat management are allowed with the approval of the Pennsylvania Department of Environmental Protection.

7. Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.

8. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and if in accordance with other provisions of this ordinance.

9. Burning in emergency situations such as natural disasters is allowed if approved by the Pennsylvania Department of Environmental Protection.

10. Except for campfires, open burning under this section shall only be conducted at a location at least 50 feet from the nearest building that is not on the same property.

11. Except for campfires and permitted bonfires, open burning shall only be conducted from the hours of dawn to dusk

12. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The open burning, bonfires or recreational fires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

13. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water-body.

14. Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 50 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

SECTION VII. BURN BARRELS

A burn barrel may not be used in the Borough of Tamaqua.

SECTION VIII. PATIO WOOD-BURNING UNITS

A patio wood-burning unit may be installed and used in the Borough of Tamaqua only in accordance with all of the following provisions:

1. The patio wood-burning unit shall not be used to burn refuse.
2. The patio wood-burning unit shall burn only clean wood.
3. The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.
4. Shall be at least ten (10) feet from adjoining property land.
5. Shall be in approved containers.
6. Shall be located on a non-combustible base surface at least 4'x4'.

SECTION IX. OUTDOOR FIREPLACES

Outdoor fireplaces constructed and generally intended for recreational use as defined in this chapter for residences and small commercial application may be considered as approved for contained burning tinder. Such fireplaces shall have an essentially contained

fire chamber in which all burning takes place, and a flue or chimney through which exhaust, gas, smoke and emissions escape. The flue or chimney must have a spark arrester or screen covering, if said chimney or flue is of insufficient length or such construction as to prevent the emissions of sparks and ash. A screen covering will be required over any fire chamber which has an open top surface which may allow spark and ash emissions. A \$10.00 permit fee is required.

SECTION X. FIRE DEPARTMENT PRACTICE BURNS

Notwithstanding the General Prohibition on Open Burning, Outdoor Burning and Refuse Burning, and the Materials That May Not Be Burned sections of this ordinance, the Borough of Tamaqua Fire Department may burn a standing building if necessary for fire fighting practice and if the practice burn complies with the requirements of the Pennsylvania Department of Environmental Protection.

SECTION XI. BURNING PERMITS

1. No person shall start or maintain any open burning outdoor fireplace without obtaining a burning permit at a fee set by the Tamaqua Borough Council by Resolution and issued by the Borough of Tamaqua Fire Chief or his designated representative.

2. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

3. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under the Open Burning of Leaves, Brush, Clean Wood and Other Vegetative Debris section of this ordinance shall obtain a one-time burning permit before starting the fire. There is no fee for a one-time burning permit.

4. When weather conditions warrant, the Fire Chief or the Pennsylvania Department of Environmental Protection may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

5. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

6. A permit shall be required for a n outdoor fireplace. In addition, the applicant shall submit prior to the issuance of a permit a site plan, that is required, showing the location of the proposed appliance on the property, location and height of all existing structures on the property, and distances from the 'appliance to existing structures on the property. The Tamaqua Borough Fire Chief or his designated representative shall conduct an inspection of the proposed installation and location. , The manufacturers specifications and instructions shall also be furnished to the Borough before a permit can be issued.

7. Any permit issued by the Borough Zoning/Code Enforcement Officer for the installation and operation of the Appliance may be revoked to protect the public health, safety and welfare of the residents of the Borough of Tamaqua.

8. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION XII. LIABILITY

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION XIII. RIGHT OF ENTRY AND INSPECTION

Any authorized officer, agent, employee or representative of the Borough of Tamaqua including the Fire Chief or his designated representative may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

SECTION XIV. ENFORCEMENT AND PENALTIES

The Code Enforcement Officer and the Fire Chief or his designated representative, or authorized officer, agent, or representative of the Borough of Tamaqua is authorized to enforce any provisions of this Ordinance.

Any person, firm or corporation who shall violate any of the provisions of this Ordinance shall upon conviction thereof, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars or less than Two Hundred (\$200.00) Dollars, and in default of payment of said fine, be subject to imprisonment for a term of not more than thirty (30) days. Every day that a violation of this Ordinance continues shall be deemed to be, and shall constitute a separate offense hereunder.

SECTION XV. SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

DULY ENACTED AND ORDAINED this ^{7th} 2nd day of ^{July} ~~June~~.

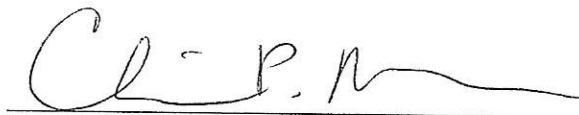
ATTEST

BOROUGH OF TAMAQUA


Georgia Depos-DeWire, Secretary/Treasurer


By: Micah J. Gursky, President

Approved this ^{7th} 2nd day of ^{July} ~~June~~, 2009.


By: Christian P. Morrison, Mayor