

WASHINGTON COUNTY LAW LIBRARY  
WASHINGTON COUNTY COURTHOUSE  
SUITE 0804, ONE LOUIS MAIN ST.  
WASHINGTON, PA 15301-6813

# ORDINANCE NO. 99-01 OF WEST MIDDLETOWN BOROUGH WEST MIDDLETOWN, PENNSYLVANIA

AN ORDINANCE REGULATING AND RESTRICTING OUTDOOR FIRES (OPEN - BURNING) IN WEST MIDDLETOWN BOROUGH, WEST MIDDLETOWN, PA WASHINGTON COUNTY THE PURPOSE OF THIS ORDINANCE IS TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE BY REGULATING OUTDOOR BURNING SO AS TO PROTECT HARM AND/OR DAMAGE TO LIFE AND PROPERTY CAUSED BY OUTDOOR FIRES.

ORDINANCE NO. 99-01 OF 1999

WHEREAS, the Council of West Middletown Borough deem it advisable and necessary for the protection of the public health, safety, and welfare so to regulate and restrict outdoor fires (open burning) so as to prevent harm and damage to life and property caused by outdoor fires; and,

WHEREAS, open burning may not interfere with reasonable enjoyment of life or property and may not be deleterious to humans, animals, plants or property, and;

WHEREAS, the Council of West Middletown Borough desire to enact this Ordinance in compliance with applicable Federal and State Law and Regulations, specifically, 25 Pa. Code, Chapter 129 which regulates open burning.

NOW, THEREFORE BE IT ENACTED AND ORDAINED by the Council of West Middletown Borough, Washington County, Pennsylvania and it is hereby enacted and ordained by authority of same in pursuance of authority granted Townships of the Second Class, By the Act of July 30, 1963, PL 352, Sec. 1 (53P.S. & 65703A), and by the Act of May 1, 1993, PL 103, as amended, (53P.S. & 6601).

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the West Middletown Open Burning Ordinance of 1999.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to Section 12 of the Air Pollution Control Act, as amended, 35 P.S. 4012 (a), and Section 702, clauses XXIX (Health), XXXII (Fire Prevention), XLI (Ordinances), XLVII (Public Safety), and LXII (General Powers) of the Second Class Township Code, 53P.S. 65729, 65732, 65741, 65747

and 65762.

### SECTION 3. DECLARATION OF PUBLIC POLICY

It is hereby declared to be the policy of West Middletown Borough as a matter of public health and safety to regulate fires and open burning in West Middletown for the purposes of:

- (a) Protecting the air resources of the Borough
- (b) Preventing injury to human, plant and animal life and to property; and
- (c) Protecting the comfort and convenience of its citizens.

### SECTION 4. DEFINITIONS

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

- B. PERSON: Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency, or other legal or commercial entity recognized by law as the subject of rights and duties.
- C. CONTAINED FIRE: Any fire in an incinerator, fireplace or cooking grill or other contained enclosure designated for outdoor cooking, or a fireproof container.
- D. ENFORCEMENT OFFICER: The Fire Chief of West Middletown, the Zoning Officer of West Middletown, and the Officers of the Pennsylvania State Police shall be designated the authority to bring any and all enforcement actions.
- E. VEGETATIVE MATTER: Tree Leaves, plant cuttings, brush and limbs of trees up to four inches (4") in diameter, and all products of, or made from wood.
- F. RIGHT OF WAY: The total width of any land reserved or dedicated for the public use of vehicular or pedestrian traffic, interstates, freeways, parkways, lanes, alleys, viaducts, sidewalks, marginal access ways and any other ways used for vehicular and pedestrian traffic which are dedicated to public use of residents in a land development or subdivision.
- G. WOOD AND WOOD PRODUCTS: Trunks of trees and limbs of trees exceeding four inches (4") in diameter, and all products of, or made of wood.
- H. RESPONSIBLE ADULT: An individual eighteen (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.
- I. GARBAGE: All Putrescible animal and vegetable matter resulting from handling preparation, cooking and consumption of food.
- J. WASHINGTON COUNTY: a geographic area as defined in 25 Pa. Code Section 121.1 which includes, among other political subdivision, West Middletown.

### SECTION 5. ENFORCEMENT

The West Middletown Borough Fire Chief, The West Middletown Zoning Officer, and the Officers of the Pennsylvania State Police, and any duly elected constable for the Magisterial District in which West Middletown Borough is located and/or his or her duly appointed deputies shall have the power and duty to enforce the provisions of this Ordinance.

**SECTION 6: GENERAL PROHIBITION OF OPEN BURNING**

- A. **OPEN FIRES PROHIBITED:** It shall be unlawful for any person to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever of whatever nature in West Middletown Borough without complying with this Ordinance.
- B. **STATE REGULATIONS:** No person shall cause suffer or permit any open burning operation if said open burning operation is contrary to:
  - a. The rules and regulation of the Department of Environmental Resources, or
  - b. Section 610 of the Solid Waste Management Act 35 P.S. 6018.610
- C. **FIRE-FIGHTER TRAINING:** Nothing herein shall be construed to prevent fire-fighting training by West Middletown Borough designated fire-fighting organizations.

**SECTION 7: OPEN FIRES PERMITTED SUBJECT TO REGULATIONS**

The following types of fires are permitted subject to the specific and general regulations contained herein:

- A. **WOOD AND WOOD PRODUCTS:** Burning of wood and wood products is permitted subject to the following regulations:
  - (1) **Permit Required for Open Burning to Clear Land:** Any landowner may obtain a permit for open burning of wood and wood products and vegetation on a lot for the purpose of clearing land for agriculture or construction. The application for a permit shall be made to West Middletown Borough, shall be substantially the same form as required by the Department of Environmental Resources, Bureau of Air Quality Control, Commonwealth of Pennsylvania shall include the location of the clearing project the size to be cleared, the type of air curtain destructor to be employed, description of the type and amount of waste to be burned, the expected duration of the burning, the anticipated method of residue disposal, the name of the person who will attend the fire and be responsible to prevent the spread of fire or hazardous conditions and shall be accompanied by a permit fee as established from time to time by the Council of West Middletown Borough. West Middletown Borough may impose such further condition as it deems appropriate for the control of air pollution and protecting buildings, housing, property and well being of its citizens. West Middletown Borough reserves the right to rescind approval granted if a determination is made by the Borough that an air pollution problem exists.
  - (2) **No permit Required:** All other burning of wood and wood products is permitted without a permit, subject to the restrictions described in SECTION 9.
- B. **VEGETATIVE MATTER:** Open burning of vegetative matter, other than as regulated by Section 7 (A) (1) is permitted without a permit subject to the limitations and regulations of Section 9 and the following additional regulations:
  - 1. The person desiring to burn a field for weed or brush control shall first notify the Fire Department which serves the area in which the fire shall occur.

## SECTION 8:

The following types of fires, provided that such fires are wood and wood products only, are exempted from the regulations set forth in this Ordinance:

- A. COOKING FIRE: Fires solely for the cooking of food for immediate consumption.
- B. CAMP FIRES: Camp fires for warmth, fellowship, food preparation or ceremonial purposes by bona fide groups of individuals such as hunting camps or public organizations, and/or other organizations such as, but not limited to, Boy Scouts or Girl Scouts;
- C. PUBLIC DUTY: Fires set in the performance of public duty by any fireman or public official purposes to protect public health and safety.

## SECTION 9: GENERAL RESTRICTIONS ON OPEN BURNING

- A. PUBLIC ROADS AND PROPERTY: No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks alleys or public grounds of West Middletown Borough, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

### B. SAFE DISTANCES:

1. It shall be unlawful to allow any fire, including cooking, within an unsafe distance from any building or property line.
2. 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 department for training purposes.
3. Out-of-doors fires shall be permitted only upon private property shall take place at least twenty (20') feet from a building providing that reasonable safeguards are maintained.

### C. CONTROL OF BURNING AND UNATTENDED FIRES:

1. No fire shall be allowed to burn unattended without a responsible adult being present at all times and without readily available fire extinguishing apparatus.
2. 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 government body. The West Middletown Council may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
3. No fire shall be set that results in uncontrolled burning of vegetation (field fires).
4. Out-of-doors fires shall be confined in a non-combustible container, such as a masonry fire place or metal container which is covered with a wire screen of one half (1/2") or smaller mesh, or in other suitable non-combustible container, except for fires of leaves, brush, and/or natural, untreated wood which need not be confined to or covered by a non-combustible container.
5. No masonry fireplace or metal container shall be larger than a 55 gallon drum.

### D. EXTINGUISHING UNSALE FIRES:

It is a violation of this Ordinance for a 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 any enforcement officer, as defined herein, and upon demand of said enforcement officer, the responsible adult shall immediately extinguish the same.

### E. HOURS/DAYS:

1. No person shall burn or cause to burn any paper, boxes, rubbish, leaves, or any other kind of

substance, nor shall any person or persons set or maintain any uncontained fire, or burn or cause to be burned an uncontained fire of any substance or material of any kind, out of doors, anywhere in West Middletown Borough between 8:00 p.m. to 7:00 a.m.

2. Contained fires shall not be permitted to burn or smolder between the hours of 1:00 a.m. and 5:00 a.m.
3. Recreational fires 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.
4. There shall be no open burning on Sundays at any time.
5. There shall be no open burning at any time on any federally-recognized holiday.

#### F. UNLAWFUL SUBSTANCE:

1. Burning of construction debris, plastics, byproducts of manufacturing and processing operations, and wastes from commercial operations is strictly prohibited.
2. No person shall burn or allow to burn any product or material which creates noxious or objectionable emissions. These products and materials include, but are not limited to, the following:
  - a. Tires and other rubber products.
  - b. Roofing shingles:
  - c. Wire insulation:
  - d. Plastic and vinyl products:
  - e. Fiberglass:
  - f. Dirt Laden roots and tree stumps:
  - g. Diapers:
  - h. Human/animal waste:
  - i. Animal hides, furs, or skins:
  - j. Asbestos containing materials:
  - k. Grass clippings
3. No person shall burn demolition waste, including standing buildings, unless a permit has first been granted by the Department of Environmental Resources.
4. No person shall use an open burning operation as a method of salvaging any product or material.
5. Nothing herein shall be construed to permit or encourage the burning of a 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 a 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.
6. No garbage or offal may be burned at any time either indoors or out-of-doors
7. Fires shall be used to burn only readily combustible materials.

#### G. SPECIAL CIRCUMSTANCES:

In the event that it is necessary to have an uncontained fire of a size and/or at times other than permitted under the Ordinance, special permission must be obtained in advance from the Fire Chief of West Middletown or his designee or the Zoning Officer. In the event any Fire Company is required to respond to a fire which violates the provisions of the Ordinance, a service fee may be levied by the responding Fire Company.

#### SECTION 10: PENALTIES FOR VIOLATION OF SECTION 7 AND 9

Any person who suffers or permits on property controlled by such person, or who conducts, any open fire of any materials other than wood or wood products, vegetative matter or for weed or brush control, in violation of the Air Pollution Control Act of 1960, as Amended, shall be subjected

to the costs, Civil Penalties, Civil Contempt, collection, lien and the like as provided by the Air Pollution Control Act and/or the penalties contained in this Ordinance. Each day upon which a violation occurs shall constitute a separate offense.

Any person violating any of the provisions in this Ordinance shall, upon conviction thereof, in a Summary Proceeding, be sentenced to pay a fine or penalty of not less than \$100.00 nor more than \$1,000.00, plus costs, and in default of the payment of the fines and costs, be subject to incarceration of a period of not more than thirty (30) days. Each day upon which a violation occurs shall constitute a separate offense.

#### SECTION 11. SEVERABILITY

The provisions of this Ordinance are severable and, if any of its provisions shall be held invalid or unconstitutional, the decision of the Court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this ordinance would be adopted if such illegal, invalid or unconstitutional provision had not been included herein.

#### SECTION 12. REPEALER

All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance hereby repealed.

ENACTED AND ORDAINED this 21 day of December, 1999

Karen J. Craig  
Secretary

Wayne P. King  
President of Council

John R. Temple  
Mayor of West Middletown Borough