

FILE OF COUNCIL

NO. 16 of 2011

PRESENTED IN CITY COUNCIL ON JUNE 16, 2011

AN ORDINANCE

**OF THE CITY OF WILKES-BARRE, PENNSYLVANIA AMENDING
CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF WILKES-
BARRE ENTITLED “NUISANCES.”**

WHEREAS, burning within the City of Wilkes-Barre has traditionally not been tolerated as an acceptable means of waste or refuse disposal;

WHEREAS, unregulated open burning within the City may constitute a threat to the safety, health, and welfare of the people living within the City; and

WHEREAS, unregulated open burning may constitute a threat of damage or harm to property;

NOW, THEREFORE, IT IS HEREBY ORDERED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF WILKES-BARRE THAT CHAPTER 18 ENTITLED “NUISANCES” OF THE CITY OF WILKES-BARRE CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:

CHAPTER 18. NUISANCES

Sec. 18-13. Open Burning

A. *Definitions.*

OPEN BURNING - For the purposes of this Section, “open burning” is defined as the burning of any materials wherein smoke, ash, or embers are emitted into the air without passing through a stack or chimney. Open burning does not include the legal smoking of tobacco products.

PLANT LIFE - Vegetation including, but not limited to, trees, tree branches, leaves, yard trimmings, shrubbery, grass and weeds.

REFUSE – All putrescible and nonputrescible wastes (except body waste), and including but not limited to garbage, rubbish, street cleanings, dead animals, abandoned automobiles, and solid market and individual waste.

B. General.

No person shall start, kindle, cause, allow, or maintain any form of open burning on private or public property, except as specifically authorized by this ordinance or except as permitted, in writing, by the Wilkes-Barre Fire Department.

C. Exemptions.

Provided that the burning complies with applicable state and federal statutes, regulations, or other law and that the size of the fire does not exceed one foot high by two feet wide and two feet long, the following types of open burning shall be allowed:

(1) The burning of charcoal, clean untreated wood, and other cooking fuels customarily used in an outdoor grill or traditional food cooking devices.

(2) The burning of clean untreated wood in a commercially manufactured outdoor fire pit, commercially manufactured outdoor fire place, or other reasonably safe outdoor fire pit or outdoor fire place provided that:

(a) The fire is wholly contained within the fire pit or fire place;

(b) The fire pit or fire place is covered by a screen to control the emission of ash and embers;

(c) The fire does not constitute a nuisance;

(d) The fire is not within 15 feet of combustible materials or adjacent property lines;

(e) The fire is not unattended;

(f) There is not more than one fire pit or fire place located on the lot; and

(g) The fire is not located on a lot containing more than two dwelling units or at a fraternity, sorority, or similar housing.

For purposes of this subsection, a dwelling unit is the abode of a person or persons acting as a single housekeeping unit.

(3) Burning for bona fide ceremonial or bona fide religious purposes.

D. Fire Department.

(1) Even if the burning would be otherwise allowed under this Article, no open burning shall occur if, in the discretion of the Wilkes-Barre Fire Department, said burning constitutes a nuisance by representing a danger to the public safety, health, or welfare.

(2) Burning by any government subdivision or government agency for training or other purposes shall not be prohibited by any section of this Article.

E. Plant Life/Refuse.

No person shall burn plant life, refuse or any other similar substance except by the express written approval of the Wilkes-Barre Fire Department.

F. Hours.

It shall be unlawful for any person to start, kindle, cause, allow, or maintain any form of open burning between the hours of 12:00 a.m. and 6:00 a.m. except as specifically authorized, in writing, by the Wilkes-Barre Fire Department.

G. Penalty.

Any person violating any of the provisions of this Section shall be guilty of a summary offense and upon conviction shall be subject to a fine of not more than two hundred fifty dollars (\$250.00). Each act in violation of any of the provisions hereof shall be deemed a separate offense.

SEVERABILITY.

The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Wilkes-Barre that this ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

REPEALER.

All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. All ordinances not specifically amended hereby remain in full force and effect.

Passed finally by the Council of the City of Wilkes-Barre on August 11, 2011.

This ordinance shall become effective ten (10) days after final passage by the Council of the City of Wilkes-Barre.

Attest:

Jim Ryan, City Clerk