## MONROE COUNTY SANITARY CODE

# **ARTICLE V**

## **Open Burning Control**

[Added 8-10-1999 by Res. No. 305-1999]

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## § 569-36. Policy

- A. It is hereby declared to be the policy of the County of Monroe to control open burning consistent with the public health, welfare and comfort of the residents of the county and the protection of property and other resources.
- B. The necessity for legislative intervention by the enactment of the provisions of this article is hereby declared as a matter of legislative determination, and this title shall be liberally construed to effect its purpose.
- C. Nothing herein contained shall be construed to abridge the emergency powers of the Board of Health or the Department of Health or the right of the Department of Health to engage in any of its necessary or proper activities.

## § 569-37. **Purpose**

It is the intent and purpose of this article to protect the air resources of the County of Monroe from pollution through strict control of open burning.

## § 569-38. **Definitions**

As used in this article, the following terms shall have the meanings indicated:

AGRICULTURAL OPERATION -- An operation that includes the land and onfarm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

DIRECTOR -- The Director of the Monroe County Department of Health or his designated representative.

FUEL -- Solid, liquid or gaseous combustible materials used primarily either to kindle or sustain fire or to produce heat, including refuse to be consumed in refuse-burning equipment.

GARBAGE -- Animal and vegetable waste resulting from the handling, preparation, cooking and/or serving of food.

NUISANCE -- Consists of conduct or omissions which offend, interfere with or cause damage to the public in the exercise of rights common to all such as to offend public morals, interfere with use by the public of a public place, or endanger or injure the property, health, safety or comfort of the public.

OPEN FIRE and/or OPEN BURNING -- Any outdoor fire or outdoor smokeproducing process from which air contaminants are emitted directly into the outdoor atmosphere.

PERSON -- Any individual, public or private corporation, political subdivision, agency, board, department or bureau of state, municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is recognized by law as the subject of rights and duties.

REFUSE -- All waste material, including but not limited to garbage; rubbish; incinerator residue; street sweepings; dead animals and offal.

RUBBISH -- Solid or liquid waste material, including but not limited to paper and paper products; rags; trees or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products; wood; sawdust; demolition materials; tires; and automobiles and other vehicles and parts for junk, salvage or disposal. "Rubbish" shall not include garbage, incinerator residue, street sweepings, dead animals or offal.

## § 569-39. Effect on other local laws, ordinances and regulations

- A. Nothing in Article V shall preclude the right of any town, village or municipality to adopt local laws, ordinances or regulations consistent with the intent of this article, or any subsequent code or rule promulgated pursuant to this article.
- B. Article V shall not supersede such local laws, ordinances, or regulations so long as they are not contradictory to the purpose of this article.
- C. Local laws, ordinances and regulations, or other state or local officials having jurisdiction, may further restrict or prohibit open burning as necessary.

## § 569-40. **Open fires**

- A. No person shall burn any refuse in any open fire except in conformity with the provisions of § 569-40B.
- B. When not prohibited by other local laws, ordinances or regulations, or other officials having jurisdiction, the following types of open burning are permissible:
  - (1) Fires in outdoor grills and outdoor fireplaces for the purpose of preparing food.
  - (2) Campfires and fires used solely for recreational purposes and when a nuisance is not created. The burning of leaves and lawn and garden debris shall not be considered recreational burning. Local tire marshals and fire chiefs shall be consulted for information on local laws and/or other restrictions.
  - (3) Burning of tree trimmings, insect-infested or diseased vegetation, material cultivated from created wetlands, animal or vegetable wastes or land-clearing materials consisting of trees, tree trimmings, leaves or brush from on-premises agricultural operations, when burning is controlled and a nuisance is not created. This provision does not apply to the City of Rochester. Local fire marshals and fire chiefs shall be consulted for information on local laws and/or other restrictions.
  - (4) Open burning of highly explosive or dangerous materials in remote areas for which there is no other practical method of disposal, when nuisance is not created and when conducted by police and fire officials for the purpose of the protection of public safety.

- (5) Burning of solid or liquid fuels or structures, when conducted under the direct control and supervision of qualified instructors and when done for the instruction and training of firefighters.
- (6) Properly operated industrial flares for combustible gases.
- (7) Open burning under unusual circumstances and when no alternate procedure is considered practical after prior written approval by the Director.

## § 569-41. Enforcement

- A. For the purpose of this article the term "enforcement officer" shall mean the Monroe County Board of Health, or its designee, the Monroe County Sheriff and other municipal law enforcement agencies operating in Monroe County.
- B. If the enforcement officer determines, after a hearing pursuant to the Public Health Administrative Hearing Procedures adopted March 12, 1996, that a violation of this article has occurred, a civil penalty may be imposed by the enforcement officer pursuant to § 569-42 of this article. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this article.
- C. Any person who desires to register a complaint under this article may do so with any appropriate enforcement officer.
- D. The decision of any enforcement officer shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- E. The enforcement officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in § 569-42 of this article.

## § 569-42. **Penalties for offenses**

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply with any of its provisions.
- B. Any person who violates any provision of this article shall be guilty of a violation, punishable by a civil penalty not to exceed \$1,000.