

**BOROUGH OF CAPE MAY POINT  
COUNTY OF CAPE MAY  
STATE OF NEW JERSEY**

**ORDINANCE NO. 18-2024**

**AN ORDINANCE CREATING CHAPTER 113, ARTICLE 3 (“PROHIBITION AGAINST FIRE PITS”), OF THE CODE OF THE BOROUGH OF CAPE MAY POINT**

**WHEREAS**, the Governing Body of the Borough of Cape May Point has recommended adoption of Article 3 of the existing Chapter 113 of the Borough Code in an effort to prohibit open burning and recreational fires within the boundaries of the Borough in order to protect and preserve the public health, safety, and welfare of the Borough of Cape May Point and its inhabitants and guests; and

**WHEREAS**, it is the intention of the Borough of Cape May Point to prohibit open burning and recreational fires due to the dangerous and objectionable conditions that present themselves when smoke and burning embers are transmitted between properties based on atmospheric conditions and local conditions; and

**NOW, THEREFORE, BE IT ORDAINED** the Board of Commissioners of the Borough of Cape May Point, County of Cape May, State of New Jersey, create and adopt Article 3 of Chapter 113 of the Borough Code as follows:

**Chapter 113, Article III – Prohibition Against Open Burning & Fire Pits**

**Section 113-6 – LEGISLATIVE DECLARATION**

It is hereby determined and declared that the open burning and recreational fires created through the use of fire pits within the Borough of Cape May Point present dangerous and objectionable conditions due to the high likelihood of smoke and burning embers being transmitted between properties through atmospheric conditions and local circumstances that often present themselves in the Borough of Cape May Point, most notably strong coastal winds. Therefore, the Commissioners of the Borough of Cape May Point find it necessary and proper for good order and protection of persons and property, as well as for the preservation of the public health, safety, and welfare of this municipality and its inhabitants, to prohibit open burning, as well as the creation and use of recreational fires, and that such prohibition is an appropriate and necessary exercise of the Borough’s police powers.

This ordinance is intended to supplement the International Fire Code, as adopted by the New Jersey Uniform Fire Code Rules and Regulations, codified at N.J.A.C. 5:70-1, *et seq.*, and any discrepancies or inconsistencies that are

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found to exist between this ordinance and either the International Fire Code or New Jersey Uniform Fire Code Rules and Regulations shall be resolved in favor of the aforementioned statutes and regulations.

### **Section 113-7 – OPEN BURNING DEFINED**

Open burning is defined as “the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.”

Open burning includes, but is not limited to, portable open burning clay solid fueled fireplaces known as “chimeneas,” round campground fire pits, bonfires, elevated torches that are commonly referred to as “tiki torches”, sky lanterns, and fireworks.

### **SECTION 113-8 – RECREATIONAL FIRE DEFINED**

Recreational Fire is defined as “burning materials, other than rubbish, where the fuel being burned is not contained in an incinerator, outdoor fireplace containing a protective ember screen, barbeque grill, or barbeque pit, regardless of whether such burning is for pleasure, religious ceremony, cooking, warmth, or other similar purposes.”

### **SECTION 113-9 – PROHIBITION**

Open burning and recreational fires, as defined herein, shall be prohibited in the Borough of Cape May Point unless such approval is obtained by the Borough through the issuance of a permit to conduct a controlled open burn or recreational fire.

The burning of materials, other than rubbish, that are contained in an incinerator, outdoor fireplace containing a protective ember screen, outdoor smokeless fire stove, barbeque grill, or barbeque pit shall not be prohibited by this ordinance.

### **SECTION 113-10 – PERMIT REQUIREMENTS**

In the event that a permit to conduct an open burn or recreational fire is issued, the permittee shall be required to ensure that any open burn or recreational fire shall not be conducted within twenty-five (25) feet of a structure or within twenty-five (25) feet of combustible materials. Conditions which could cause a fire to spread within twenty-five (25) feet of a structure or combustible materials shall be eliminated prior to ignition of the open burn or recreational fire.

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**SECTION 113-11 – VIOLATIONS AND PENALTIES**

Any person that is found to be in violation of any provisions of this Chapter shall, upon conviction, be subject to a fine of \$250.00 for a first occurrence and a fine of \$500.00 for any subsequent offense.

**SECTION 113-12 – SEVERABILITY**

Should any provision of this ordinance be deemed invalid for any reason, such invalidity shall not affect the remaining provisions of this ordinance and the invalidated provisions and sections of the ordinance are hereby declared to be severable with respect to invalidity.

**SECTION 113-13 – EFFECTIVE DATE OF ORDINANCE**

This ordinance shall take effect twenty (20) days after final passage in accordance with applicable law.

<b>Withdrawn</b>	<b>MOTION</b>	<b>SECOND</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Busch			X			
Moffatt		X	X			
vanHeeswyk	X		X			

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Catherine Busch, Commissioner

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Robert Moffatt, Mayor

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Anita vanHeeswyk, Commissioner

ATTEST:

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Elaine L. Wallace, Borough Clerk

FIRST READING: Sept. 12, 2024  
PUBLICATION: Sept. 18, 2024  
PUBLIC HEARING: Not Held  
PUBLICATION: Not Needed