

Introduced by: Councilmember Snipper

First Reading: March 14, 2011
Second Reading: March 28, 2011
Effective Date: March 28, 2011

CITY OF TAKOMA PARK, MARYLAND

ORDINANCE NO. 2011-5

(Amending the *Takoma Park Code* to repeal the section on “burning of refuse” and to adopt the *Montgomery County Code* provisions regulating burning by open fires)

WHEREAS, *Takoma Park Code* section 10.16.110 prohibits the burning of “trash, garbage or refuse” in public areas and “trash or rubbish” in open yards, but does not specifically prohibit open burning or the burning of items such as tires, construction debris, hazardous material, and brush and other plant life; and

WHEREAS, open burning contributes to air pollution by releasing fine particulate matter, carbon monoxide, volatile organic compounds, nitrogen oxides, and other toxins; and

WHEREAS, smoke caused by open burning can aggravate respiratory conditions, such as asthma, bronchitis, emphysema, and pneumonia, irritate eyes and lungs, decrease visibility, and create annoying odors; and

WHEREAS, the Task Force on Environmental Action, in its Final Report issued April 30, 2010, under Air Quality Recommendations, recommended that the City clearly ban open burning by adopting the *Montgomery County Code* provisions regulating burning by open fires; and

WHEREAS, the Council desires to follow the Task Force on Environmental Action’s Air Quality Recommendation by repealing *Takoma Park Code* section 10.16.110 on the burning of refuse and adopting the *Montgomery County Code* sections relating to the control or prohibition of open fires and open fires generally.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. Title 10, Refuse, Chapter 10.16, Prohibited Disposal Methods, of the *Takoma Park Code* is amended as follows:

Chapter 10.16. Prohibited Disposal Methods.

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~~10.16.110~~ — Burning of refuse.

- ~~A. No person shall burn any trash, garbage or refuse of any description upon any public park, public sidewalk, public right of way, public street or other public spaces except upon permission of the Mayor and Council and under the direction of the Director of Public Works or the Director's representative.~~
- ~~B. No trash or rubbish of any description, including leaves, paper or like material, shall be burned in the open yard of any premises.~~
- ~~C. A violation of this section is a Class B offense.~~

10.16.110 Open fires.

- A. "Open fire" is any fire in which any material is burned in the open or a receptacle other than a furnace, incinerator or other equipment not in conformance with the design requirements of the applicable building code of Montgomery County or the air quality control regulations of the State of Maryland.
- B. Montgomery County Code, Chapter 3, Air Quality Control, Sections 3-2 (Definitions) and 3-8 (Control or prohibition of open fires) and Chapter 22, Fire Safety Code, Section 22-88 (Open fires generally), as amended and in effect from time-to-time, shall apply in the City of Takoma Park.
- C. The City of Takoma Park requests and authorizes Montgomery County to administer and enforce the requirements of Montgomery County Code set forth in 10.16.110.B. above for the purpose of regulating burning by open fires in the City.
- D. In addition to enforcement by Montgomery County, the City Manager, or his/her designee, is authorized to issue a notice of violation, stop work order or order to extinguish an open fire, or municipal infraction citation to any person who causes or allows a violation of this section. A violation of this section is a Class A violation. In addition to any other remedy allowed by law, the City may seek injunctive or other appropriate judicial relief to prevent or stop a violation of this section.

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SECTION 2. This Ordinance shall be effective immediately upon adoption.

**ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND,
THIS 28TH DAY OF MARCH, 2011, BY ROLL-CALL VOTE AS FOLLOWS:**

AYE: Williams, Wright, Clay, Robinson, Seamens, Snipper, Schultz
NAY: None
ABSENT: None
ABSTAIN: None

EXPLANATORY NOTE

Additions to the existing language of the *Takoma Park Code* are shown by underlining.

~~Deletions~~ to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.

* * * * indicates language of the *Takoma Park Code* which is not reproduced in this Ordinance and which is not being changed.