

OFFICIAL

MUNICIPALITY OF [NAME]
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE [No.]

AN ORDINANCE OF THE MUNICIPALITY OF [NAME], ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING ORDINANCE [NO.], THE OFFICIAL MUNICIPALITY OF [NAME] CODE, BY ADDING A CHAPTER: OPEN BURNING.

WHEREAS, because of the more recent occurrences of unregulated open burning in the [Municipality] and the direct effect that activity has on one's health – mental and physical, use, maintenance and enjoyment of property, quality of life, comfort, living conditions, safety and welfare of individuals, families and the community as a whole, the [Council] [Board of Commissioners] of the [Municipality] of [Name], after study and consultation with [Municipal] planning, zoning and fire officials, deems it to be in the best interests of the [Municipality] to regulate open burning. In order to regulate said activity, it shall, after the enactment of this chapter, become necessary to obtain a permit from the designated [Municipal] agents before open burning in any manner as designated in this chapter; and

WHEREAS, the [Council] [Board of Commissioners] of the Municipality of [Name] directed the preparation of an amendment to the Ordinance to accomplish this purpose and directed the required consideration of the proposed amendment by the Planning Commission and conducted the required public hearings; and

WHEREAS, a meeting of the said [Council] [Board of Commissioners] of the Municipality of [Name] was held on the [] day of [], 19[], at the [Name] Municipal Building, [Street Address], [Municipality], Pennsylvania, at which meeting the majority of the [Council] [Board of Commissioners] of the Municipality of [Name] cast votes in favor of the adoption of said Ordinance amendment.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by [Council] [Board of Commissioners] of the [Municipality] of [Name], in meeting assembled, and it is hereby ordained and enacted by and with the authority of the same, as follows:

SECTION 1: THAT the following new Chapter be added:

99.1 Definitions.

99.1.1 The following definitions shall apply to the interpretation of the provisions of this Ordinance:

99.1.2 AQI FOR PARTICLE PM2.5 POLLUTION – Shall mean the EPA Air Quality Index for reporting current air quality that tells how uncontaminated or polluted the air is as to particulate matter PM 2.5, and what associated health effects apply.

99.1.3 HEAT-TREATED WOOD - Shall mean commercially available heat-treated and sterilized natural hardwood with a moisture content less than 18% that contains no

paint, stains or other types of coatings, and has not been treated with preservatives or chemicals, including copper, chromium arsenate, creosote and pentachlorophenol, is devoid of added petroleum or chemical binders, resins or glues and bears a USDA Heat Treatment Certification Label on packaging and a USDA APHIS seal.

99.1.4 KILN DRIED WOOD - Shall mean commercially available kiln dried natural hardwood with a moisture content less than 18% that contains no paint, stains or other types of coatings, and has not been treated with preservatives or chemicals, including copper, chromium arsenate, creosote and pentachlorophenol, is devoid of added petroleum or chemical binders, resins or glues and bears a USDA Kiln Dried Certification Label on packaging and a USDA APHIS seal.

99.1.5 PARTICLE PM2.5 POLLUTION – Shall mean fine, inhalable airborne particulate matter that is a mixture of liquid and solid material 1 to 2.5 µm in diameter.

99.1.6 PERSON - Shall mean an individual, family, partnership, firm, association, corporation or other legal entity.

99.1.7 PROHIBITED MATERIALS – Shall mean materials that are not allowed in any fire:

1. Paper, cardboard or other similar refuse
2. Leaves, grass, weeds, brush, trimmings, timber, yard waste, roots, rootballs, stumps, logs, limbs, branches or other organic materials
3. Wood pallets, railroad ties
4. Flammable liquid, oil grease and gasoline s
5. Building materials, scrap lumber, and construction waste and debris of any kind
6. Rigid foam, batt and wire insulation
7. Vegetable waste or garbage
8. Solid waste
9. Tires, rubber
10. Plastics
11. Furniture
12. Glass, crocking
13. Metals
14. Tar, tar products, asphalt, asphalt products
15. Waste from mill or production operations
16. Electronics, batteries
17. Carcasses of any kind
18. Any other kind of materials except as allowable herein

99.1.8 RECREATIONAL/COOKING FIRE - Shall mean an open burning outdoor fire in a non-combustible outdoor fireplace, a commercially available chiminea, engineered bottom air fed, low smoke type fire pit or grill, or an in-ground fire pit where a person or persons are sitting, standing or playing at or around such fire for cooking, dining, entertainment, conversation, game, play, sport or hobby..

99.1.9 UNNECESSARY OPEN BURNING SMOKE, ODOR OR PARTICULATE MATTER (PM_{2.5}) – Shall mean smoke, odor or particulate matter emissions from open burning that:

- Cross the property boundary at the source onto another person's land
- Interfere with a person's enjoyment of life or property
- Directly affect or change a person's mental or physical health, quality of life, comfort, living conditions, use and maintenance of property, safety and welfare
- Constitute an offensive, invasive, irritating, incursive, threatening, annoying or aggravating condition or nuisance to another person
- Discourage, interfere with or disrupt the conduct or enjoyment of another person's basic human activities inside or outside such as conversation, reading, sleep, study, eating, work, play or hobby

99.2 Prohibition.

99.2.1 This chapter is not meant to control or prohibit outdoor cooking-grilling/recreation using a commercially manufactured grill or fire table that is electrically powered or fueled by either lump charcoal or propane or some other form of gas, and used for cooking or recreation.

99.2.2 It shall be unlawful for any person to make, continue, permit or cause to be made or continued, an open fire within the Municipality, with the exception of a single recreational/cooking fire for preparation of food or recreation that shall be regulated by the issuance of a permit by the Municipality.

99.2.3. It shall be unlawful for any person to make, continue, permit or cause to be made or continued, an open burning fire for preparation of food or recreation unless it has satisfied the requirements herein including but not limited to issuance of a permit, unnecessary smoke, unnecessary odor, unnecessary particulate matter, type of device, prohibited materials, maximum size of fire, minimum clearance, allowable time of burning, maximum duration of burning, maximum AQI, maximum temperature, minimum humidity, maximum wind speed, Air Quality Action Days, NWS Special Weather Statement - Elevated Fire Danger, multiple fires, attendance and means of extinguishment.

99.2.5 It shall be unlawful for any person to make, continue, permit or cause to be made or continued, any open fire that emits any unnecessary smoke as seen at or beyond the property line nearest the source which is clearly visible and distinguishable from the customary and ordinary background sky as seen at or beyond the property line nearest the source which is clearly visible and distinguishable from the customary and ordinary background sky in the Municipality.

99.2.6 It shall be unlawful for any person to make, continue, permit or cause to be made or continued, any open fire that emits any unnecessary odor as smelled at or beyond the property line nearest the source which is clearly odorous and distinguishable from the customary and ordinary background odor as smelled or detected at or beyond the property line which is clearly odorous and distinguishable from the customary and ordinary background odor in the Municipality.

99.2.7 It shall be unlawful for any person to make, continue, permit or cause to be made or continued, any open fire that emits any unnecessary fine particulate matter as measured by ad laser particle counter at or beyond the property line nearest the source which is clearly measurable and distinguishable from the customary and ordinary ambient background particulate PM2.5 level as measured at or beyond the property line nearest the source which is clearly measurable and distinguishable from the customary and ordinary or current ambient background PM2.5 particulate level in the Municipality.

99.3 Fire Regulations.

99.3.1 In order to procure and maintain the legal status of an open burning permit, the applicant shall be required to meet the following criteria and shall agree to abide by these rules and regulations:

1. Only heat treated or kiln dried hardwood products with a moisture content less than 18% shall be burned.
2. Only smokeless fuels, if any, shall be used to start the fire.
3. The size of the fire, including the enclosure and materials being burned therein shall be no larger than one and a half feet on a side or one and a half feet in diameter nor more than 12" high and the flames therefrom shall not exceed 3' in height above the bottom of the fire.
4. The fire shall be at least 50 feet from the nearest structure, inhabited area, roadway or property line or boundary, and no structure or vegetation of any kind shall overhang the fire.
5. The fire shall burn no longer than two hours in duration in any twenty-four-hour period and no fire shall be ignited before 2 pm and no fire shall be extinguished later than 10:00 pm nor shall open burning be conducted on any property more than twice in any month.
6. No fire shall be ignited and open burning is prohibited on days when the current AQI for Particle PM2.5 Pollution in the Municipality as per PA DEP is above [50][78] in "code yellow", "code orange", "code red", "code purple", or "code maroon".
7. No fire shall be ignited and open burning is prohibited when the relative humidity is less than 30%, or when wind speeds exceed 15 mph or when the temperature exceeds 80° Fahrenheit.
8. No fire shall be ignited and open burning is prohibited on "Air Quality Action Days" or during an applicable "Air Pollution Episode" as determined by the Allegheny County Health Department.
9. No fire shall be ignited and open burning is prohibited when the U.S. National Weather Service has issued a Special Weather Statement for Elevated Fire Danger.

10. Only a single open burning wood fire on any one property may be ignited at any time and simultaneous indoor - outdoor wood burning is prohibited.
11. No fire shall be left unattended during the time it is burning and shall be extinguished and cold to the touch when either it is to be unattended or at the expiration of the permit period of two hours. A fire shall be attended by an adult 18 years of age or older.
12. No open burning shall occur unless there is at a minimum a 5 Pound Class A:B:C Dry Chemical extinguisher, its equivalent or better, or a garden hose, fully pressurized, within four feet of the fire.
13. Mere attendance of a fire or the pretense of food preparation shall not constitute a fire conducted solely for the purpose of preparation of food for human consumption or recreation (play, sport, game, fun, or hobby) and such a fire is prohibited.
14. Exception to the within requirements as to open burning shall be a fire-fighting training fire. A fire-fighting training fire shall require an Allegheny County Health Department Open Burning Permit Application.

99.4 Permit.

99.4.1 A Permit shall be obtained by filling out an application at the Municipal Building Permits Office or at the Municipality's website. There shall be a charge of \$10 for issuance of the permit. The permit shall be applicable to only one fire for one calendar day, and successive and separate applications but no more than two per month must be made for each additional fire. A fire to be ignited Tuesday through Friday shall require that the applicant apply for the permit 24 hours in advance. A fire to be ignited Saturday, Sunday or Monday shall require that applicant apply for the permit no later than the close of the Municipal Permits Office on the Thursday preceding the desired Saturday, Sunday or Monday. The permit, if approved, shall be issued and signed by officials of the Municipality and the Fire Chief.

99.5 Enforcement, Violations and Penalty.

99.5.1 Any and all Municipal Code Enforcement Officers and Police Officers are hereby granted the authority and responsibility for inspecting open burning Recreational/Cooking fires for compliance with this Ordinance. In the event any violations of this Ordinance are found to be in existence at the time of inspection, the Code Enforcement Officer or Police Officer is hereby charged with the responsibility of issuing warnings, citations or directions as to immediate extinguishment, as merited, for all violations of this Ordinance.

99.5.2 Any person violating any provision of the Ordinance shall be fined not more than \$300 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

99.5.3 In addition to the penalties set forth herein, should a fire found to be in violation of this chapter, not being properly extinguished to the satisfaction of [Municipal] officials, and said officials in their discretion have to call out fire equipment to properly extinguish the fire, and if Fire Department equipment is used, an additional charge of \$300 shall be assessed as a penalty, said funds to

be paid to the [Name] Fire Department to defer expenses.

99.6 Court proceedings.

99.6.1 The [Council] [Board of Commissioners] may, in its sole discretion, and in the name of the [Municipality], institute proceedings in courts of equity to restrain the continued violation of this Ordinance.

99.7 Similar Ordinances.

99.7.1 The remedies provided in this Ordinance are cumulative and are not intended to repeal or replace any ordinance heretofore or hereinafter enacted which prohibits nuisances in general or specific nuisances in particular, and provided further that this Ordinance shall not repeal or affect in any manner whatsoever Ordinance No. [No.].

99.8 Severability.

99.8.1 The provisions of this Ordinance are severable, and if any section, sentence, clause or phrase shall be held to be illegal, invalid or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby but they shall stand notwithstanding the invalidity of any part.

99.9 Repealer.

99.9.1 Any ordinance or parts of ordinance conflicting with the provisions of this Ordinance, except as provided 99.7 are hereby repealed to the extent of such conflict.

SECTION 2: THAT the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall stand notwithstanding the invalidity of any part.

SECTION 3 THAT any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be, and the same is hereby, repealed to the extent of such conflict.

ORDAINED AND ENACTED in the law by [Council] [Board of Commissioners] of the Municipality of [Name] this ____ day of _____, 2021.

ATTEST:

MUNICIPALITY OF [Name]

By _____

Secretary

[President of Council] [President Board of Commissioners]

[EXAMINED AND APPROVED by me, this ____ day of _____, 2021

Mayor]