

ORDINANCE NO. 2017-1

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, SPECIFICALLY CHAPTER 7, SECTION 501 ET. SEQ., AND PROVIDING FOR REGULATING BURNING WITHIN THE BOROUGH OF NESQUEHONING AND PROVIDING PENALTIES FOR ANY VIOLATION OF SAID BURNING REGULATIONS

BE IT ORDAINED AND ENACTED by the Council of the Borough of Nesquehoning, Carbon County, Pennsylvania and it is hereby Ordained and Enacted by authority of the same as follows:

ARTICLE 1. PURPOSE

This ordinance is enacted in the interest of the health, safety and welfare of the residents of the Borough of Nesquehoning for the prevention of fires and to eliminate nuisances caused by smoke, cinders and ashes.

ARTICLE 2 DEFINITIONS

As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Council– The Council of the Borough of Nesquehoning.

Fire Pit– Either a portable device that is commercially manufactured for the purpose of building a recreational fire, such as a chimenea or above-ground fire pit, or a permanent, constructed fire chamber that is completely lined with noncombustible material such as brick, rock or concrete.

Fuel– seasoned untreated dry hardwood.

Furnace– Any enclosed device specifically designed for burning any material for the production of heat excepting an Outdoor Furnace as defined herein.

Garbage– All putrescible, animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

Incinerator– Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

Open Fire– A fire in which any material is burned in the open or in a receptacle other than a furnace, fire pit or incinerator.

Outdoor Furnace: any equipment, device, apparatus or structure or any part thereof which is installed, affixed or situated outdoors for the purpose of combustion of any type of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space or water source.

Person– Any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

Refuse– Garbage, rubbish and trade waste.

Rubbish– Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry, and other similar materials.

Salvage Operation– Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

Trade Waste– All solid or liquid material or rubbish resulting from construction, building operations or the prosecution of any business, trade or industry, including but not limited to plastic products, carbons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials, provided that “Trade waste” shall not include any coal refuse associated with the mining or preparation of coal.

ARTICLE 3– FIRES IN PUBLIC AREAS

No person or persons shall set or maintain any fire upon any of the streets, public alleys, sidewalks or public grounds in the Borough of Nesquehoning, except that nothing herein shall prohibit the use of fireplaces and other cooking facilities placed in any public park by the borough for the purposes for which such facilities are intended.

ARTICLE 4– FIRES ON PRIVATE PROPERTY

Outdoor fires shall only be permitted upon private property within the Borough, provided that the following regulations and restrictions are strictly followed:

a. Fires are permitted in an outdoor fire pit if contained within a non-combustible container in accordance with the set backs specified below. Every outdoor fire pit shall be built in and confined to a noncombustible container covered with a screen of one-half inch , or smaller, mesh, or with other noncombustible covering and shall be no more than three (3') feet wide by three (3') feet wide by three (3') feet high. It is expressly prohibited for anyone to ignite, light or maintain any fire in a container or vessel similar to a gallon drum regardless of material used for construction of the gallon drum.

b. No such fire shall be closer than 30 feet to any dwelling, 20 feet from any other

structure than a dwelling or 10 feet to any property line.

c. Fires in fire pits shall be able to be kindled or maintained during any day of the week during the period between Memorial Day and Labor Day, between the hours of 6:00 PM and 11:00 PM. At all other times of the year, fires in fire pits may only be kindled on holidays, Fridays, Saturdays and Sundays between 5:00 PM and 10:00 PM. All fires must be tended at all times until the fire is out.

(1) Recreational fire pits shall be constantly attended by a person knowledgeable in the use of fire extinguishing equipment required by this Ordinance hereunder. An attendant shall be at least 18 years of age in order to assume responsibility for the use of these appliances and shall supervise a recreational fire until such time as the fire is out or another equally qualified person shall assume responsibility for supervision of said recreational fire.

d. The burning of garbage, vegetable waste, rubber, plastics, furniture, glass, metals, crocking, car products or any other materials which will create a nauseous or noxious fumes, smoke, toxic chemicals or excessive fly ash is specifically prohibited.

e. No "leaf waste" as that phrase is defined by the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. Section 4000.101 et. seq. may be burned anywhere within the borough. Any "leaf waste", as that phrase is defined by the Municipal Waste Planning, Recycling and Waste Reduction Act, supra, shall be disposed of in strict accordance with the Act.

f. No newspaper or other material which is required to be recycled may be burned anywhere within the borough.

g. Charcoal, or gas grills or wood fires kindled for the purpose of outside barbecues shall

be permitted.

h. Fireplaces within a private residence are permitted for the purpose of providing heat or for use as a barbecue, but in no event shall garbage, rubbish or trash be burned in a fireplace.

i. All controlled burns must be reported to the Carbon County Telecommunications Center prior thereto.

j. No person shall ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside of any building.

k. Maintenance:

(1) recreational fire pits shall be maintained in good condition at all time.

(2) Fire extinguishing equipment such as buckets, shovels or garden hoses shall be readily available for use at recreational fires.

l. Under no circumstances shall any open fire be ignited, lit or maintained by any person or persons on any porch, deck or similar structure attached to the main housing unit with or without a roof over the porch, deck or attached structure to the housing unit.

ARTICLE 6– EXCEPTIONS

a. Open fires may be set in the performance of an official duty of any public officer, if the fire is necessary for:

(1) the prevention of a fire hazard which cannot be abated by other means.

(2) the protection of the public health.

(3) abatement of a fire hazard and set by or under the supervision of a public officer.

(4) the purpose of instructing personnel in firefighting.

(5) for the prevention and control of disease or pests.

ARTICLE 7– ENFORCEMENT

The Council of the Borough of Nesquehoning hereby directs that it shall be the duty of any Nesquehoning Police Officer, any Fire Chief or their designee of the Fire Companies of the Borough of Nesquehoning, to enforce the provisions of this Ordinance. In the discharge of such duty, he or she may enter upon or into any private lane, alley, vacant lot, backyard or any other portion of the private property of any person within the Borough of Nesquehoning.

ARTICLE 8- LIABILITY

Anyone within the Borough of Nesquehoning who burns and any property owner in the Borough of Nesquehoning who allows burning on his or her property, shall be jointly and severally liable for any and all damages incurred as a result of any burning including but not limited to any damages which may be caused to a neighbor either through smoke or fire.

ARTICLE 9– REQUIRED CLEAN-UP

Anyone who burns within the Borough of Nesquehoning and any property owner in the Borough of Nesquehoning who allows burning on his or her property shall clean up and remove any and all residue from the burning within ten(10) working days from the date of burning.

ARTICLE 10– NOTIFICATION

In the event anyone is engaged in illegal burning under the provisions of this ordinance, any Fire Chief or their designee of the Fire Companies of the Borough of Nesquehoning or any member of the Nesquehoning Police Department shall notify said person that he or she is in violation of this ordinance and said person shall immediately extinguish the fire.

ARTICLE 11– VIOLATIONS AND PENALTIES

Any person who violates any of the provisions of this ordinance shall upon conviction thereof be fined in an amount not to exceed six hundred (\$600.00) dollars and in default of payment of said fine and costs, shall be sentenced to undergo imprisonment for a period not to exceed thirty (30) days.

ARTICLE 12– REPEALER

All existing Ordinances of Nesquehoning Borough, or parts thereof, inconsistent with this Ordinance or any part thereof, are hereby repealed or amended to the extent specified herein.

ARTICLE 13– EFFECTIVE DATE

This Ordinance shall become effective upon adoption hereof.


ARTICLE 14– EFFECT OF COUNTY OR STATE BURN BAN

If there is a Burn Ban in effect within the Borough of Nesquehoning instituted either by the county or the state then the Burn Ban will supersede any of the allowable burning within the Borough of Nesquehoning and no burning will be allowed until the Ban is lifted.

ORDAINED AND ENACTED by the Council of Nesquehoning Borough this 25th day of January, 2017.

BOROUGH OF NESQUEHONING

BY:  _____

ATTEST:  _____
Secretary

Examined and Approved this 25th day of January, 2017.

Samuel J. Kellor
Mayor