

BOROUGH OF DURYEA ORDINANCE NO. 2013-3

ORDINANCE OF THE BOROUGH OF DURYEA, LUZERNE COUNTY, PENNSYLVANIA REGULATING AND PROHIBITING THE BURNING OF GARBAGE, RUBBISH AND OTHER MATRERIALS WITHIN THE BOROUGH OF DURYEA; AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Borough of Duryea, is a duly authorized political subdivision of the Commonwealth of Pennsylvania; and

WHEREAS, The Council of the Borough of Duryea is desirous of providing for the health, welfare and safety of Borough residents pursuant to §§1202(6) (16) and (21) of the Pennsylvania Borough Code.; and

WHEREAS, The Borough Council believes that pollution of the air by open burning and otherwise is detrimental to the health, comfort, living conditions, welfare and safety of the citizens of the Borough, and that it is in the best interests of the residents of the Borough to implement certain regulations governing and regulating out door fires and burning within the Borough in order to protect the health, welfare and safety of the residents.

NOW THEREFORE, be it ordained and enacted as follows:

I. TITLE:

This Ordinance may be cited as the “Duryea Borough Burning Ordinance”.

II. PURPOSE:

The Purpose of Duryea Borough in adopting this Ordinance is to regulate and prohibit the burning, ignition and combustion of rubbish, garbage and other materials within the Borough of Duryea, and to promote and protect the health, safety and welfare of it’s residents.

III. DEFINITIONS:

A. **Borough** - The Borough of Duryea, Luzerne County, Pennsylvania, a duly authorized and incorporated political subdivision of the Commonwealth of Pennsylvania.

B. **Borough Council** - The members of the Borough Council of the Borough of Duryea, Luzerne County, Pennsylvania.

C. **Building** - a man-made structure, whether it is permanent or temporary, utilized for sheltering people, animals, property or business activity. The term “building” and the term “structure” are used interchangeably in this Ordinance.

D. **Burn** - To ignite or set on fire any material for the purposes of disposing/reducing such material, creating heat or creating light.

E. **Fire Department** - Any chartered, volunteer fire department located within the Borough of Duryea, Luzerne County, Pennsylvania.

F. **Fire Pit** - A pit dug into the ground, or made from stones, masonry or metal for keeping a fire used in cooking or warmth.

G. **Garbage** - Any putrescible animal or vegetable matter, fruit, meat or other food substances, both liquid and solid, which are subject to decay, which result from the handling, preparation, cooking, serving or consumption of food and food containers.

H. **Grill** - A gated utensil used for broiling food over a fire.

I. **Nauseous or Noxious Fumes** - Gases, smoke or fumes resulting from burning which are harmful or injurious to the health or physical well-being of persons, or that cause sickness or persons.

J. **Person** - Any natural person, partnership, firm, company or corporation.

K. **Police Department** - The Police Department and its officers of the Borough of Duryea, Luzerne County, Pennsylvania.

L. **Refuse** - Garbage, rubbish and trade waste.

M. **Responsible Adult** - Any individual person over the age of 18 years of age who is mentally competent.

N. **Rubbish** - Any solid, discarded waste materials, including, but not limited to scrap, metal, furniture, windows, boxes, crockery or paper, tires, rubber, plastics, rags, clothing, leather, carpets, excelsior, ashes, tree leaves, yard trimmings, brush, tin cans, glass, masonry and other similar items.

O. **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, cartons, paint, grease oil, and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials.

P. **Wood** - The hard fibrous material that forms the main substance of the trunk or branches of a tree or shrub, including, but not limited to tree branches, timber, boards, tree logs, kindling, charcoal and other similar items.

IV. BURNING PROHIBITED:

A. It shall be unlawful for any person to burn, ignite or cause to be burned any material within the Borough, except as provided otherwise hereinafter.

B. Any person who shall violate any of the rules and regulations of this Ordinance shall be guilty of creating and/or maintaining a nuisance.

V. ENUMERATION OF PROHIBITED ACTS:

A. No person shall burn, ignite or cause to be burned any rubbish, garbage or any other material within the right-of-way of any public street, alley, road or public way.

B. No person shall burn, ignite or cause to be burned any garbage, rubbish, refuse or trade waste on any private land or public land within the Borough of Duryea, whether or not such burning occurs within the confines of a building or outside the confines of a building.

C. No person shall burn, ignite or cause to be burned any wood or wood products on any private land or public land within the Borough of Duryea, outside the confines of a building, except as otherwise set forth herein.

D. No nonresidential business or operation, including but not limited to commercial, institutional, or industrial establishments, shall burn, ignite or cause to be burned any materials, whether the materials are garbage, refuse, wood, trade waste or rubbish, or whether it is inside or outside the confines of a building, unless such an establishment has a permit from the Pennsylvania Department of Environmental Protection, or any successor agency, to burn such materials.

VI. EXCEPTIONS:

A. Nothing contained in §§ IV and V herein, shall be construed to apply to the use of any standard, commercially designed, non-combustible grill used for the non-commercial preparation of food to be consumed on the premises; or any fire pit within the Borough.

B. Any grill or fire pit used within the Borough shall be constructed and operated in a safe manner, and shall not be located closer than twenty (20) feet to any building, structure or property line.

C. In the event there is a question as to the safety of the operation or construction of any grill or fire pit within the Borough, the Chief of one of the local fire departments shall be consulted to inspect said structure.

VII. FIRES FOR REMOVAL OF STRUCTURES:

No person shall deliberately set a fire for the purpose of removing, razing or tearing down an existing building or structure.

VIII. ENFORCEMENT:

The enforcement of the rules and regulations of this Ordinance shall be carried out by the Police Department and/or Code Enforcement Officer of the Borough of Duryea, in conjunction with and in coordination with the fire department.

IX. ABATEMENT OF NUISANCES:

A. Any person who has ignited a fire contrary to the rules and regulations set forth herein, shall upon notice by an officer of the Police Department or member of the Fire Department or Code Enforcement Officer, immediately distinguish the fire.

B. Person(s) who do not immediately discontinue the violation of this Ordinance, or who are repeat violators, shall be issued a citation by an officer of the Police Department.

X. REPEAT VIOLATORS:

Persons who have been given a warning notice on one (1) or more occasion with respect to violations described in this Ordinance may, at the discretion of the officers of the Police Department, be issued a citation for violating the Ordinance.

XI. CONFLICTS WITH OTHER LAWS:

Any regulations by the Commonwealth of Pennsylvania or the government of the United States of America pertaining to burning of any materials shall supercede the rules and regulations of this Ordinance where such rules and regulations are more stringent than the rules and regulations of this Ordinance.

XII. FIRE TRAINING:

Any fire training conducted by a Borough Fire Department or another recognized public fire-fighting organization shall not be bound by the rules and regulations of this Ordinance when such organization is conducting fire-fighting training.

XIII. VIOLATION AND PENALTY:

A. Any person who violates, or permits a violation of this Ordinance, upon being convicted before a Magisterial District Justice, shall pay a fine of not less than One Hundred (\$100.00) Dollars and not exceeding Six Hundred (\$600.00) Dollars, and any costs incurred by the Borough of Duryea, and in default of payment of the fine and costs, shall be subject to imprisonment in for a period not exceeding Thirty (30) days. Each day of the violation shall be considered a separate violation and offense.

XIV. SEVERABILITY:

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision of this Ordinance shall be determined to be illegal or invalid by any court or competent jurisdiction, such decision shall not impair or affect the remaining terms, sections and clauses of this Ordinance.

XV. EFFECTIVE DATE:

This Ordinance shall take effect ten (10) days following the date of enactment.

DULY ENACTED AND ORDAINED into law this 13th day of August, 2013.