

**BOROUGH OF CARNEGIE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2360

**AN ORDINANCE OF THE BOROUGH OF CARNEGIE,
COUNTY OF ALLEGHENY, IN THE COMMONWEALTH OF
PENNSYLVANIA, AMENDING CHAPTER SEVEN OF THE
BOROUGH CODE OF ORDINANCES TO ESTABLISH
REGULATIONS AND RESTRICTIONS ON OPEN FIRES AND
OPEN BURNING AND PROVIDING FINES AND PENALTIES
FOR VIOLATIONS THEREOF.**

WHEREAS, the Borough Council of the Borough of Carnegie seeks to promote and protect the public health, safety and general prosperity of its citizens; and

WHEREAS, Borough Council finds that unregulated, open burning within the Borough limits represents a potential hazard and risk of fire within the Borough; and

WHEREAS, such a risk of fire within the Borough represents an unnecessary risk of harm to Borough residents and Borough firefighters; and

WHEREAS, Borough Council finds that unregulated, open burning represents a nuisance to Borough residents through smoke trespassing onto other property owners' property; and

WHEREAS, Borough Council desires to address the unnecessary risks associated with open burning in the Borough with this Ordinance.

NOW, THEREFORE, be it ordained by the Borough Council of the Borough of Carnegie that Chapter Seven of the Borough Code of Ordinances is amended as follows:

CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

PART 4

OPEN BURNING

Section 401. General Prohibition Prohibiting Fires and Burning without Permit:

From and after the effective date of this Ordinance, no person, corporation, partnership, association, organization or other group whatsoever (hereinafter collectively referred to as "property owner" or "person" as applies) shall burn any materials of any kind in the Borough, except as authorized by this Ordinance or as authorized pursuant to a valid permit issued by Allegheny County pursuant to County Ordinances and regulations.

Section 402. Definitions

A. Fire – the phenomenon of combustion manifested in light, flame and heat.

B. Commercial Fire – An open fire intended for warmth of outdoor work crews. Commercial fires are permitted only during times that a work crew is actually engaged in outside work and only when the outside temperature is Forty Degrees Fahrenheit (40° F) or lower.

C. Small Open Fire - a fire contained within a grill, outdoor barbeque, fireplace or similar device to cook food with charcoal, natural gas, or wood; or any other fire from which the properties of combustion are emitted directly into the air without first passing through a structural stack or chimney and being used for the purpose of non-commercial food preparation, light, ornament or recreation and being of such maximum size and using only such materials as authorized hereunder, and otherwise complying with this Ordinance, and conducted in such location, conditions, and in a manner which contributes only a negligible amount of air contaminants.

Section 403. Rules and Regulations Regarding Fires Authorized Without Permit:

A. Permitted Receptacles/Containers:

1. Commercial fires: Commercial fires for outdoor work crews may be conducted in non-combustible containers no larger than a 55 gallon drum, with combustible material at all times to be completely contained within the container and with only one open fire per work crew.

2. Small Open Fires: All other small open fires authorized under this Ordinance must be contained within one of the following Authorized Containments:

1. a grill or barbeque designed for the purpose of the preparation of food for human consumption.

2. a fireplace, chiminea or commercial manufacture fire pit designed specifically for the purpose of containing a fire.

B. Permitted Locations:

1. Commercial fires: Commercial fires shall be kept in reasonable proximity to the area where work crews are regarding so as to allow workers to utilize the fire for warmth. In no circumstances shall a Commercial fire be less than ten (10) feet from the nearest house, structure, utility, tree, or other combustible materials.

2. Small Open Fires:

a. Grills, outdoor barbeques or fireplaces designed for and used strictly for cooking only shall be no less than five (5) feet from a house, structure, inhabited area, roadway, utility or property line.

b. Other open fires shall be maintained in an Authorized Container located not less than 10 feet from the nearest house, structure, inhabited area, roadway, property line, utility, tree, or other combustible materials except that nothing herein shall prohibit the use of a patio chiminea, patio heater, or other commercial manufactured fire pit designed and recommended for such use by the manufacturer.

C. Permitted Times:

1. Commercial fires: Commercial fires shall be permitted only when the work crew for which it is intended to provide warmth is actually engaged in outside work and the outside temperature is below forty degrees Fahrenheit (40° F).

2. Small Open fires: Small Open fires shall be permitted only during the hours of 12:00 PM and 12:00 AM.

D. Permitted Materials: All open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel; dry, clean, logs, twigs, or other wood products. Only smokeless fuels, or small kindling, if any, may be used to start a fire. No painted or chemically treated woods, plastics, cardboard boxes, paper, household wastes, toxic

or noxious materials, cloth, leaves, green yard waste or other materials that tend to cause excessive or malodorous emissions or excessive smoke may be used to start or maintain a fire.

F. Maximum Size: In all cases, the fire shall be of such size that the combustible material and flame are contained completely within the perimeter of the authorized containment receptacle, and in no case may the combustible material and flame be greater than nine (9) square feet in area or in excess of three (3) feet in height above the receptacle.

F. No Excessive Smoke, Odors or Malodorous Emissions: No persons shall allow or maintain a fire which creates excessive smoke, excessive odor, or malodorous emissions. Smoke and odors shall be considered excessive if they contribute more than a negligible amount of air contaminants perceptible beyond the property line of the source of the fire.

G. Adult Supervision, Control, Extinguishment: Only an adult property owner or other adult authorized by the property owner shall authorize or conduct a small open fire. The adult property owner or other adult authorized by the property owner to conduct such a fire shall at all times be present at and shall tend to the fire from the time it is lit through the time of total extinguishment. Adequate means to control and extinguish the open fire shall be readily available at all times during any burning. Suitable covering or means of disposal of ashes shall be provided to prevent them from becoming air-borne. The adult property owner or other authorized person supervising the fire shall be responsible to assure that all aspects of the fire comply with this Ordinance and shall assure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or non-compliant fire or burning, the property owner or other person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning. Proof that the defendant in any enforcement action owns or controls the property on which open burning occurs shall be prima facie evidence that such person has conducted, or allowed to be conducted, such open burning.

H. Ozone Action Days: In all cases, no burning shall be permitted in the Borough on declared Ozone Action Days.

Section 404. Police Authorized to Order Immediate Extinguishment, Abatement or Correction of Fires:

A. A police officer, other duly authorized law enforcement officer of the Borough, or the Chief of the Carnegie Fire and Rescue Bureau, may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected (in his or her sole discretion) if, in the officer's sole judgment, the fire:

1. is emitting excessive smoke, excessive odor, or malodorous emissions;
2. contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
3. is in a prohibited location or of a prohibited size;
4. is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
5. where its size, materials, containment, location, emissions, proximity to structures, trees, other combustible materials, conduct of participants, weather conditions (including but not limited to wind, drought, dry or other conditions) or air quality, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property.

Section 405. Prohibited Acts.

A. No person, firm or corporation shall permit, authorize, conduct, or participate in the burning of any open fire except in compliance with this Ordinance.

B. No person, firm or corporation shall refuse to comply immediately and fully with any order of a Carnegie Borough Police Officer, other duly authorized law enforcement officer of the Borough, or the Chief of the Carnegie Fire and Rescue Bureau to contain, control, correct, or extinguish, any fire or burning.

Section 406. Penalties.

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than the greater of one thousand dollars (\$1,000.00) or the maximum amount per offense permitted under law, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each violation of any provision of this Ordinance shall constitute a separate offense. In addition, in any civil enforcement action brought by the Borough to collect unpaid fines or penalties imposed pursuant to this Ordinance, the Borough shall also be entitled to collect all costs, expenses, and attorney fees associated with such action.

Section 407. Severability:

In the event that any section or sections of this Ordinance, or parts of the same, shall be declared to be invalid by any Court of competent authority, the remaining provisions of this Ordinance shall continue in full force and effect notwithstanding.

Section 408. Repealer:

It is the intention of the Borough Council of the Borough of Carnegie to repeal any Ordinance of the Borough or any part of any Ordinance of the Borough that conflicts with the terms and provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Article 409. Effective Date:

This Ordinance shall take effect immediately as provided under law.

ORDAINED AND ENACTED into law this _____ day of _____, 2011.

ATTEST:

THE BOROUGH OF CARNEGIE

Secretary

Patrick J. Catena, President

Jack Kobistek, Mayor

Approved as to form:

Solicitor