

BOROUGH OF THROOP ORDINANCE #7 of 2018

ORDINANCE OF THE BOROUGH OF THROOP, LACKAWANNA COUNTY, PENNSYLVANIA REGULATING AND PROHIBITING THE BURNING OF GARBAGE, RUBBISH AND OTHER MATERIALS WITHIN THE BOROUGH OF THROOP; AND PRESCRIBING PENALTIES FOR VIOLATION.

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

WHEREAS, The Council of the Borough of Throop 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 outdoor 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 "Throop Borough Burning Ordinance".

II. PURPOSE:

The Purpose of Throop Borough adopting this Ordinance is to regulate and prohibit the burning, ignition and combustion of rubbish, garbage and other non-burnable materials within the Borough of Throop, and to promote and protect the health, safety and welfare of its residents.

III. DEFINITIONS:

A. **Borough** - The Borough of Throop, Lackawanna 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 Throop, Lackawanna County, Pennsylvania.

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

D. **Burn/Burning** - As used within this Ordinance "burning shall have the following meaning. "The igniting of any material to cause flame, smoke, embers, hot ash or residue, in combination or individually" for the purpose of

disposing/reducing such material, creating heat or light.

E. **Burn Container** – Any container used for the purpose of burning materials as authorized herein; constructed of masonry, metal or other non-combustible rigid material; containing a bottom, sides and a cover as herein defined. “Burn Containers” shall not be allowed to deteriorate to the point where they contain holes or missing surface in the structure. Outdoor fireplaces and fire pits shall be considered as Burning Containers for the purpose of the Ordinance.

If metal drums are being used, they shall not have contained toxic or flammable or other regulated materials. They shall be free from holes in the sides and/or bottom, except that they may contain drain or vent holes in the bottom of the drum no larger than two (2) square inches each.

Exception: Portable outdoor grills, fires by propane or charcoal, and designed for food preparation, are excluded from the provisions of this Ordinance.

F. **Burn Container Cover** – A metal screen with spaces not more than one-half (1/2) square inch, or other comparable material, which covers the entire open area above the burn container opening. Such screen shall be maintained in good order as to prevent large particles from escaping the burn container during operation. The cover shall not be allowed to deteriorate to any point whereby it loses its maximum efficiency.

G. **Duraflame** – A manufactured fire log made of compressed sawdust, vegetable and plant wax and other recycled ingredients.

H. **Fire Department** - Any chartered, or designated fire service provider on the volunteer fire department located within the Borough of Throop, Lackawanna County, Pennsylvania.

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

J. **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.

K. **Grill** - A grated utensil used for broiling food over a fire.

L. **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.

M. **Non-Burnable Materials** – the following is a partial list of those materials that are classified as “non-Burnable” under the guidelines of this Ordinance.

Plastic; rubber; oils; asbestos; composition boards; shingles; felt paper; canvas; fiber glass; vinyl; or any similar materials; or any combination of the above with any other materials.

Human or animal waste; sanitary napkins; diapers; food solids; oil filters; or any other materials individually or in combination, that emit smoke, or acrid, obnoxious or

toxic odors.

Grasses, green twigs or leaves.

The above is a partial list of those items and materials prohibited under the guidelines of this Ordinance. Any other materials that do not comply fully with the intent of this Ordinance, or otherwise create a nuisance to people or animals are strictly prohibited.

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

O. Police Department - The Police Department and its officers of the Borough of Throop, Lackawanna County, Pennsylvania.

P. Recyclable Materials - Shall mean source separated recyclable materials, including materials listed in § 1501 of Act 101, and materials identified by the municipality to be recycled.

Q. Refuse - Garbage, rubbish and trade waste.

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

S. 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.

T. 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.

U. 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. Includes any unpainted wood or wood product. Excluded and not permitted to be burned are any wood that has been chemically treated to prevent rot or moisture damage, or other similar treatment; wood products that have high glue content, such as *Flakeboard* or *Composition Board*; and wood products in combination with any non-burnable materials.

IV. BURNING PROHIBITED:

A. It shall be unlawful for any person to burn, ignite or cause to be burned any non-burnable material as defined herein including recyclable materials, refuse, rubbish, trade waste or wood 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. PROHIBITED ACTS:

- A. No person or Corporation shall cause to be burned any of the Non-Burnable Materials or any like or similar materials including refuse, rubbish, trade waste and wood, not in compliance or in conjunction with this Ordinance.
- B. It shall be illegal to burn any materials that give off any acrid, obnoxious or toxic odors or emit heavy smoke.
- C. All fires outside of Burning Containers are hereby prohibited.
- D. No burning containers shall be used or stored within ten (10) feet of any building structure, property line or public sidewalk area.
- E. This Ordinance does not prohibit the issuance of a "Special Burning Permit" by the Throop Fire Chief whenever circumstances so dictate. Such Special Permits shall be issued in writing by the Throop Fire Chief and the Fire Chief will decide whether or not Fire Services shall be in attendance.
- F. Any flame larger than 3 feet in diameter and 2 feet in height is a violation of this Ordinance and strictly prohibited.

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 that is fully contained within a screened chimney or an above ground fire pit with screens subject to the following restrictions:
- B. Any grill, burning container 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. Only clean seasoned firewood, charcoal or any manufactured logs such as "Duraflame" or similar products may be burned. No burning of trash, leaves, brush, and pressure treated wood or painted wood is permitted.
- D. All openings in the container or fire pit must be covered with a burning container cover, wire mesh or other non-combustible screening materials that will prevent the passage of sparks or embers.
- E. All fires shall be constantly attended by at least one (1) adult person until they are completely extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel's., water bucket or garden hose shall be available for immediate utilization.
- F. Fire safety must always be followed. A burning container or fire pit can not be placed directly on a combustible surface.
- G. Fires are not permitted during adverse wind and weather conditions.

H. Fires shall not be permitted to smolder.

I. All open fires as set forth herein shall be extinguished no later than 12:00 P.M. (midnight).

J. Any fire permitted to burn in an unsafe manner under adverse weather conditions, unsupervised, determined unsafe by the Fire Chief or Police Officers(s), or in violation of any provision of this Ordinance, shall be extinguished immediately upon demand by such official.

K. No provision of this Section shall be interpreted to prohibit burning of appropriate fuels in residential fireplaces, barbecues, grills, or small recreational fires that are fully contained within a screened chimney, burning container or an above ground fire pit with screens.

L. In the event there is a question as to the safety of the operation or construction of any burning container, grill or fire pit within the Borough, the Fire Chief or Officer 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 Throop, in conjunction with and in coordination with the fire department.

IX. LIABILITY:

The Throop Borough and its agents, officials, and representatives shall not, under any circumstances be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance, or by reason of the conduct of burning activity in compliance or non-compliance with the terms and provisions of this Ordinance. The person or party responsible for any such fire shall be solely responsible for any and all damages caused as a result thereof.

X. 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 extinguish 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.

XI. 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.

XII. 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 supersede the rules and regulations of this Ordinance where such rules and regulations are more stringent than the rules and regulations of this Ordinance.

XIII. 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.

XIV. VIOLATION AND PENALTY:

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 Throop, 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.

XV. 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.

XVI. EFFECTIVE DATE:

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

ORDAINED AND ENACTED this 9th day of April, 2018.

Attest:



Renee O'Malley
Secretary



Rich Kucharski
Council President



Joe Tropiak
Mayor