

ORDINANCE NO. 585 of 2017

BENTLEYVILLE BOROUGH
WASHINGTON COUNTY, PENNSYLVANIA

AN ORDINANCE OF BENTLEYVILLE BOROUGH, WASHINGTON COUNTY, PENNSYLVANIA, PROVIDING REGULATIONS RESTRICTING OPEN FIRES AND BURNING WITHIN THE BOROUGH, AND ESTABLISHING SPECIFIC REGULATIONS, SPECIFICATIONS AND DEFINITIONS; FURTHER DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATIONS.

WHEREAS, Bentleyville Borough is enacting an Ordinance that shall be known as the "Bentleyville Borough Burning Ordinance of 2017", establishing regulations governing outside burning of materials in the Borough and prohibiting specified actions and omissions; and

WHEREAS, increased development of Bentleyville Borough, the creation of programs to recycle materials, regard for environmental concerns and the public health, safety and welfare of the Borough requires proper regulation of outside burning with appropriate regard for the interests of residents having larger parcels where outside burning may not affect others so directly; and

WHEREAS, the Bentleyville Borough Council determines that it is necessary and appropriate to consolidate all applicable regulations in a restated ordinance and address any misunderstandings as to the intended application of these regulations to those in other ordinances.

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by reference, the Council of Bentleyville, County of Washington, Commonwealth of Pennsylvania therefore enacts and ordains the following:

Section 1. Short Title

This Ordinance shall be known as the "Bentleyville Borough Outdoor Burning Ordinance of 2017."

Section 2. Purpose

The purpose of this Ordinance is to regulate open burning within the Borough of Bentleyville as set forth herein.

Section 3. Definitions

For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

Construction/Demolition Waste- Solid waste resulting from construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals asphaltic substances, bricks, block, and unsegregated concrete. The term does not include the following if they are separate from other waste and are used as clean fill:

- a) Uncontaminated soil, rock, stone, gravel, brick and block, concrete and used asphalt.
- b) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

Contained Fire- Any fire contained in a fire bowl, chimney or fireplace used for outdoor heat or cooking, or in an outdoor cooking appliance designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).

Enforcement Officer-The Bentleyville Borough Code Enforcement Officer, Bentleyville Borough Police and/or Pennsylvania State Police shall be designated Enforcement Officers under this Ordinance.

Fire Bowl- Any device used for burning untreated wood in a copper or metal bowl no larger than sixty six (66") in diameter, which is suspended off the ground by a stand or as part of a table.

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

Open Fire - Any fire contained in a burn barrel or other similar container, whether or not flames are visible during burning.

Person- An individual, partnership, organization, association, agency, firm, estate, or corporation and any other legal or commercial entity.

Recreational Fire- A fire that consists of natural, untreated wood which is confined in some manner intended to prevent the fire from spreading to the surrounding area.

Refuse- Garbage and rubbish

Responsible Adult- An individual eighteen (18) years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

Rubbish- Solids not considered to be highly flammable or explosive, including, but not limited to diapers, animal waste, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials, or any other items or materials defined as "municipal waste" in the Municipal Waste Planning, Recycling & Waste Reduction Act, section 103, as amended.

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, plastic shipping containers or drums.

Trade Waste- All solid or liquid material or rubbish resulting from the prosecution of any business, trade or industry, including but not limited to plastic products, 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 for the use associated with mining or preparation of coal or untreated wood products.

Uncontained Fire- A fire in which any material not prohibited to be burned by this Ordinance is burned in the open without being confined in any manner.

Section 4. Prohibited Activities

1. It shall be unlawful to burn, ignite, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this Ordinance.

2. It shall be unlawful to burn any of the following materials in any zoning district within Bentleyville Borough:

- a. construction/demolition waste;
- b. garbage;
- c. refuse;
- d. rubbish;
- e. trade waste;
- f. by-products of salvage operations;
- g. any plastic material, other than plastic grocery, shopping and/or trash bags, including but not limited to, nylon, PVC, polystyrene, urethane foam and synthetic fabrics, plastic films, plastic containers and plastic bottles; and
- h. any other material not specified above which is not permitted to be burned according to the Pennsylvania Air Pollution Control Act, 35 P.S. Section 4001 et seq., its implementing regulations, including but not limited to 25 Pa. Code Section 129.14, and the Solid Waste Management Act and its implementing regulations, including but not limited to 25 Pa. Code Section 271.

3. No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Bentleyville Borough, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

4. No uncontained fire shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the fire department for training purposes.

5. No open fire, recreational fire or uncontained fire shall be permitted to burn during a fire ban emergency as proclaimed by the Washington County Emergency Management, Washington County Commissioners or the Bentleyville Borough Council.

Section 5. Permitted Activities

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

- a. The prevention of a fire hazard which cannot be abated by other means;
- b. The protection of public health; and/or
- c. The purpose of fire-fighting training by the Borough designated firefighting organization, if such training is commenced in accordance with Pennsylvania state law.

2. All zoning districts of Bentleyville Borough may have controlled outdoor burning (open fires, recreational fires and/or uncontained fires) subject to the following regulations:

- a. Open fires and/or uncontained fires are permitted between sunrise and sunset.
- b. No open fire or uncontained fire shall be permitted to burn or smolder anywhere within Bentleyville Borough between sunset and sunrise.
- c. Recreational fires are permitted at any time so long as they comply with all other provisions of this Ordinance.
- d. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within twenty-five feet (25') of any building or structure.
- e. It shall be unlawful to allow an open fire, recreational fire and/or an uncontained fire to burn within five feet (5') of any property line.
- f. All open fires, recreational fires, and uncontained fires must be maintained and supervised by a responsible adult with a readily-available fire extinguishing apparatus within close proximity to the fire.
- g. All open fires shall be confined in a non-combustible container.
- h. All open fires confined in a burn barrel shall be covered with a wire screen of one-half (1/2) inch or smaller mesh.

- i. No recreational fire shall contain a fuel source of more than eight (8) cubic feet.
- j. Prior to burning of any uncontained fire, the fire department shall be contacted by the resident who will be burning the fire to provide notice of the burn

3. Contained fires shall be permitted in any zoning district within Bentleyville Borough, subject to the following restrictions:

- a. Outdoor fireplaces, chimneys and fire bowls must be used at a safe distance from all buildings and property lines.
- b. Fire bowls must be covered by a protective screen when in use.
- c. Contained fires must be supervised by a responsible adult.
- d. Contained fires are permitted at any time, so long as they comply with all other provisions of this Ordinance.

Section 6. Fire Department Authority

The Borough Fire Department, or other fire department if the situation necessities, whether called upon by the Code Enforcement Officer, Bentleyville Borough Police, Pennsylvania State Police, or a citizen of the Borough, shall have the authority to enter the property of any person who burns a fire in violation of this Ordinance for the purpose of extinguishing the fire.

Section 7. Enforcement Agencies

The Bentleyville Borough Code Enforcement Officer, the Bentleyville Borough Police and/or the Pennsylvania State Police shall be designated to have all power necessary to enforce the provisions of this Ordinance on behalf of the Township.

Section 8. Criminal Enforcement Penalties

1. This Ordinance shall be enforced by an action brought before a district justice in the same manner provided for enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa. R. Crim. No. 83 (c) (relating to trial in summary cases). Any person, firm or corporation convicted of violating or permitting a violation of this Ordinance shall pay a fine not exceeding One Thousand (\$1,000) Dollars per violation and may be imprisoned to the extent allowed by law for the punishment of summary offenses. If the violation requires attendance of a Fire Company, the District Justice shall take the account of the costs incurred by the Fire Company in responding to the violation in determining the amount the fine to be levied. Each day's violation of this Ordinance shall constitute a separate offense. All fines and penalties collected for the violation of this Ordinance shall be paid to the Bentleyville Borough Treasurer. The

Council may delegate the initial determination of Ordinance violation and service of notice of violation to such officers or agents as the Borough shall deem qualified for that purpose.

2. Any fire set, maintained or permitted to smolder in violation of this Ordinance is hereby declared to be a nuisance and shall be abatable as such by an appropriate legal action.

Section 9. Equitable and Other Remedies

No penalty herein shall prevent the Borough from enforcing this Ordinance by equitable, injunctive and other remedies through the Court of Common Pleas of Washington County.

Section 10. Liability

Bentleyville 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 any burning activity in compliance with the terms and provisions of the Ordinance. The individual person or party responsible of any such fire shall bear sole liability for any damages caused as a result thereof.

Section 11. Ratifications and Repeals

All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 12. Severability

The Provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionally or inapplicability shall not effect or impair the remaining provisions or parts thereof of this Ordinance.

Section 13. Effective Date

This Ordinance shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED into law by the Council of Bentleyville Borough in
lawful session assembled this ____ day of _____, 2017.

Kimberly Sacco, Secretary

By: _____
Stan Glowaski, President

EXAMINED AND APPROVED by me this _____ day of _____, 2017.

By: _____
Thomas Brown, Mayor