

INTRODUCED: 2/14/2022

BY: Pat Foley

ENACTED: _____

ORDINANCE NO.: 324

BOROUGH OF SOUTH CONNELLSVILLE

FIRE AND BURNING ORDINANCE

ORDINANCE NO. 324

AN ORDINANCE PROVIDING FOR AND REGULATING THE USE OF FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS, AND DEFINITIONS; PROVIDING FOR ENFORCEMENT; AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Borough Council of South Connellsville has determined that air pollution from open burning may be detrimental to the health, comfort, living conditions, welfare, and safety of the residents of South Connellsville Borough; and

WHEREAS, the Borough Council of South Connellsville has determined that there is a substantial risk of public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained; and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(11), affords the borough of South Connellsville with the power "[t]o regulate the emission of smoke from chimneys, smokestacks and other sources to the extent the regulation is not otherwise prohibited by applicable Federal or State law;" and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(17)(iii), affords the Borough of South Connellsville with the power "[t]o adopt, by ordinance, rules and regulations not inconsistent with State regulations relating to the storage of inflammable articles;" and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(17)(iv), affords the Borough of South Connellsville with the power "[t]o impose, by ordinance, other safeguards concerning inflammable articles as may be necessary;" and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(4), affords the Borough of South Connellsville with the power "to prohibit and remove any nuisance;" and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(5), affords the Borough of South Connellsville with the power "[t]o make regulations as may be necessary for the health, safety,

morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the borough;" and

WHEREAS, the Borough Code, 8 Pa.C.S.A. § 1202(56), affords the Borough of South Connellsville the power to ensure "that fire and emergency medical services are provided within the Borough by the means and to the extent determined by the borough, including the appropriate financial and administrative assistance for these services;" and

BE IT ENACTED AND ORDAINED by the Borough Council of South Connellsville, Fayette County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Legislative Intent and Policy.

It is against public policy to permit uncontrolled and unrestricted outdoor burning. The purpose of this ordinance is to prevent needless public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained. It is hereby declared to be the policy of the Borough of South Connellsville to safeguard the residents of the Borough from such air pollution, damage, and injury.

Section 2. Definitions.

The following terms, words, and phrases, whenever used in this ordinance, shall be construed and defined as follows:

- (a) "Contained Fire" shall mean any fire contained in an incinerator, furnace, fireplace, or other contained enclosure designed for outdoor cooking, or a non-combustible container with a flu or wire screen of 1/2 inch or smaller mesh.
- (b) "Furnace" shall mean any enclosed device specifically designed for burning any material for the production of heat.
- (c) "Garbage" shall mean all putrescible animal and vegetable matter resulting from the handling, preparation, cooking, and consumption of food.
- (d) "Incinerator/Non-Combustible Container" shall mean any device specifically designed for the destruction by burning of refuse, sewage sludge, or any combustible material.
- (e) "Open Fire" shall mean any fire not included in the meaning of "contained fire."
- (f) "Person" shall mean any individual, partnership, association, corporation, company, department, bureau, agency, or legal entity.
- (g) "Refuse" shall mean garbage, rubbish, and trade waste.

- (h) "Responsible Adult" shall mean 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.
- (i) "Rubbish" shall mean household and domestic solids not considered to be highly flammable or explosive, including but not limited to, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry, plastics, recyclable items, and other similar items.
- (j) "Salvage Operations" shall mean 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.
- (k) "Trade Waste" shall mean 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; provided, that "trade waste" shall not include any coal refuse associated with mining or preparation of coal.

Section 3. Permitted Open Fires.

The following regulations shall apply to all open fires set, used, or burning within the Borough of South Connellsville:

- (a) **Permitted Times.** Except as provided in Section 3(b) for certain recreational fires, open fires shall be permitted only during the following times:

Monday thru Friday: 1:00 PM to 9:00 PM
Saturday: 8:00 AM to 9:00 PM
Sunday: Prohibited

- (b) **Permitted Recreational Fires Exception.** Recreational fires using natural, untreated wood and containing a fuel source of no more than eight (8) cubic feet are permitted at any time so long as they comply with all other provisions of this ordinance and all other ordinances of the Borough of South Connellsville.

- (c) **Permitted Open Fires.** No person may permit open fires on his, her, or its property with the exception of the following:

- (i) Open fires set and used for the burning of waste generated by clearing and grubbing prior to construction;

- (ii) Open fires set and used in conjunction with the production of agricultural commodities in their un-manufactured state on the premises of the farm operation;
- (iii) Open fires set and used solely for recreational or ceremonial purposes, or set and used only for cooking;
- (iv) Open fires set and used to prevent or abate a fire hazard, when approved by Pennsylvania Department of Environmental Protection and set by or under the supervision of a public officer;
- (v) Open fires set and used for the purpose of instructing personnel in fire fighting;
- (vi) Open fires set and used for the prevention and control of disease or pests;
- (vii) Open fires for the conservation and management of unique and natural areas and/or for the reduction of fuel loads; or
- (viii) Open fires used as a management technique for preventing wildfires, scientific research, or vegetation management.

Section 4. General Limitations on all Contained Fires and Open Fires.

The following regulations shall apply to all contained fires and open fires set, used, or burning within the Borough of South Connellsville:

(a) **Public Property.** No person shall set start, feed, permit to burn, or maintain any fire upon any of the streets, sidewalks, alleys, or public grounds in the Borough of South Connellsville, except with the approval of the Borough Council or where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

(b) **Safe Distances.**

- (i) It shall be unlawful to allow any fire, including cooking, within an unsafe distance from any building or property line.
- (ii) No fire shall be set, started, fed, permitted to burn, or maintained where such fire may endanger any building, structure, or property, except where such building, structure, or property is used by a fire department for training purposes.
- (iii) Outdoor fires shall be permitted only upon private property and shall take place at least twenty (20) feet from any building, structure, property line, or road line.
- (iv) Nothing contained herein shall be deemed to prohibit outdoor cooking activities providing that reasonable safeguards are maintained.
- (v) Cooking grills may be less than twenty (20) feet from a building providing that reasonable safeguards are maintained.

(c) **Control of Burning and Unattended Fires.**

- (i) No fire shall be permitted to burn in a manner that causes or enables smoke, smoke odors, ash, sparks, or embers to cross onto other properties or streets,

- sidewalks, alleys, or public grounds either in the immediate vicinity of or within twenty (20) feet of any building, structure, tree, or vegetation.
- (ii) No fire shall be permitted to burn unattended without a responsible adult being present at all times and without a readily-available fire-extinguishing apparatus.
 - (iii) No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body. The Borough Council may prohibit any, and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.
 - (iv) No fire shall be set that results or is likely to result in uncontrolled burning of vegetation.
 - (v) Outdoor fires shall be confined in a non-combustible container.
 - (vi) Open fires must be extinguished thoroughly with no smoldering.
- (d) Unlawful Substances.
- (i) Burning of construction debris, plastics, aerosol cans, byproducts of manufacturing and processing operations, and wastes from commercial operations is strictly prohibited.
 - (ii) Nothing contained herein shall be construed to permit or encourage the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance; nor shall any fire be permitted to burn by any person if such burning is in violation of the Air Pollution Control Act or other legislation of the Commonwealth of Pennsylvania or the United States of America or any other competent body.
 - (iii) No refuse, garbage, offal, recyclables, leaves or trade waste may be burned at any time either indoors or outdoors.
 - (iv) Fires shall be used only to burn readily combustible materials.
- (e) Special Circumstances. In the event that it is necessary to have an uncontrolled fire of any size, special permission must be obtained in advance from any official or person designated by resolution of the Borough Council.

Section 5. Compliance with Ordinance.

- (a) It shall be unlawful to burn, ignite, incinerate, maintain, or permit to burn any materials whatsoever, of whatever nature, without complying with this ordinance.
- (b) Nothing contained herein shall be construed to prevent fire-fighting training by Borough-designated firefighting organizations.
- (c) Any fire in violation of this ordinance may be extinguished by an official of a Borough-designated firefighting organization, the Borough Code Enforcement Officer, or an officer of the Police Department.

Section 6. Emergency Fire Ban.

(a) The Borough Council may declare a fire ban emergency in the Borough of South Connellsville with or without consultation with the fire chief or other personnel of the fire companies operating within the Borough of South Connellsville during period of drought, or other periods of high fire risk to woodlands or property within the Borough of South Connellsville.

(b) Upon the Borough Council's declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Borough Council.

(c) The Borough of South Connellsville shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation and the Borough website. In addition, the South Connellsville may issue news releases to all communication media, including radio, television, newspapers, and appropriate social media.

Section 7. Enforcement.

(a) The Borough Council appoints and authorizes the Connellsville Police and the Code Enforcement Officer to enforce the provisions of this ordinance.

(b) The Borough of South Connellsville may issue such orders as are necessary to aid in the enforcement of the provisions of this ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this ordinance; orders to take corrective action or to abate a public nuisance; orders requiring the testing, sampling, or monitoring of any open burning; or orders requiring production of information. Such an order may be issued if the Borough of South Connellsville finds that any condition existing in or on the facility or source involved is causing or contributing to open burning or if the Borough of South Connellsville finds that any person is in violation of any provision of this ordinance.

(c) Whenever the enforcement officer finds that a contained fire or an open fire not in compliance with this ordinance is occurring in the Borough of South Connellsville, the enforcement officer may order the owner or operator of the property on which such fire is burning to take corrective action in a manner satisfactory to the Borough of South Connellsville, or the enforcement officer may order the owner or operator to allow access to such property by the enforcement officer or a third party to take such action.

Section 8. Penalties.

(a) It shall be unlawful to burn, ignite, incinerate, maintain, or otherwise permit the burning of any materials whatsoever without complying with the requirements of this ordinance. Nothing contained herein shall be construed to prevent fire-fighting training by Borough-designated fire-fighting organizations.

(b) Any person who shall violate any of the provisions of this ordinance shall, upon conviction in a summary proceeding brought in the name of the Borough of South Connellsville, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than \$50.00 and not more than \$300.00, plus the costs of prosecution, and in default of payment, to imprisonment for a term of not to exceed ninety (90) days, provided that each day's violation of any of the provisions of this ordinance shall constitute a separate offense.

(c) No penalty herein shall prevent the Borough of South Connellsville from enforcing this ordinance by equitable, injunctive, and other remedies.

Section 9. Additional Costs.

(a) In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this ordinance, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for use of the following firefighting equipment:

- (i) Pumpers and tankers.
- (ii) Brush busters. Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least five hundred (500) gallons capacity and an appropriate size pump.
- (iii) Chain saws and demolition equipment.

(b) Additional labor charges shall be assessed under this ordinance based upon an hourly rate for all paid firemen engaged in the firefighting activities.

(c) The Borough Council shall determine by resolution a reasonable schedule of costs based upon mileage, operating costs, and firefighting equipment and man hours rate. These charges shall be in addition to and not in lieu of any criminal or other penalties provided elsewhere in this ordinance.

Section 10. Public Nuisance.

A violation of this ordinance or of any order issued by the Borough of South Connellsville under this ordinance shall constitute a public nuisance. The Borough of South Connellsville shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the Borough of South Connellsville may recover the expenses of abatement. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to this ordinance, the nuisance may be abatable in the manner provided by this ordinance. Any person who causes the public nuisance shall be liable for the cost of abatement.

Section 11. Municipal Liability.

The Borough Council 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 conduct of any burning activity in compliance or noncompliance with the terms and provisions hereof. The person or persons responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

Section 12. Repealer.

Ordinance #317, or part of any other ordinance that conflicts with the provisions of this ordinance is hereby repealed to the extent of any such conflict on the effective date of this ordinance.

Section 13. Severability.

If any provisions, sentence, clause, section, or part of this ordinance or application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Council of the Borough of South Connellsville that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section, or part not been included herein.

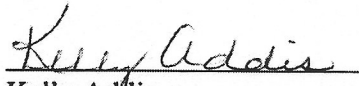
Section 14. Effective Date.

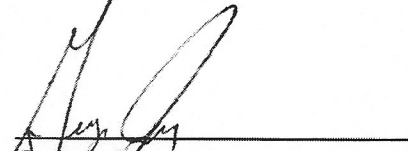
This ordinance shall become effective ten (10) days after enactment.

ORDAINED AND ENACTED into an ordinance of the Borough of South Connellsville on this 14 day of February 2022, by the Council of the Borough of South Connellsville.

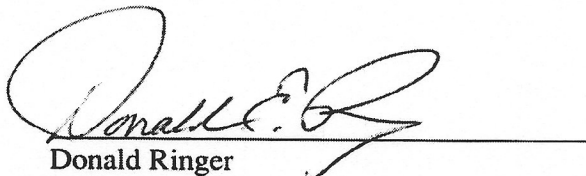
Attest

Borough of South Connellsville


Kelly Addis
Borough Secretary


George Jay
Borough Council President

Examined and Approved, this 14 Day of February 2022


Donald Ringer
Mayor