

ORDINANCE NO. 2009 - 08 - 01

AN ORDINANCE OF THE BOROUGH OF PATTON, CAMBRIA COUNTY, PENNSYLVANIA, PROHIBITING OUTSIDE BURNING WITHIN THE BOROUGH WITH CERTAIN EXCEPTIONS; ESTABLISHING PENALTIES FOR THE VIOLATION OF SAID ORDINANCE AND ESTABLISHING EXCEPTIONS TO THE ENFORCEMENT OF SAID ORDINANCE IN LIMITED SITUATIONS.

BE IT ENACTED AND ORDAINED, by the authority of the Council of Patton Borough, Cambria County, Pennsylvania, and it is hereby Enacted and Ordained by authority of same as follows:

**SECTION 1. - DEFINITIONS**

- A. As used within this Ordinance, the term "burning" shall mean the igniting of any material, whether in combination or individually to cause flame, smoke, embers, hot ash, or residue.
- B. As used within this Ordinance, the term "recreational fire" shall mean any fire set and/or maintained for the primary purpose of food preparation or social gathering.

**SECTION 2. - PROHIBITIONS**

Outside burning of any kind is prohibited at all times within the boundaries of Patton Borough, except as set forth herein.

**SECTION 3. - EXCEPTIONS**

This Ordinance shall not apply to recreational fires or for the use of outdoor grills and other like apparatuses designed for food preparation; provided, however, that food preparation and recreational fires shall not be used to:

A.) burn noxious or toxic materials, plastics or plastic coated paper, wet paper, painted products (including wood products), rubber, oils, asbestos, shingles, felt paper, canvas, fiberglass, vinyl, grasses, green twigs/ branches or other green wood, leaves, human or animal waste, diapers, oil filters, refuse or trash, or any other material(s) individually or in combination, that emit acrid smoke or noxious or toxic odors.

B.) **Outside cooking** as permitted in this Ordinance shall be permitted only by use of gas grills using fuels that are in compliance with manufacturer's instructions; grills and other cooking apparatuses using: charcoal or charcoal briquettes; by burning dry split wood, dry twigs or other dry wood materials; or

other burning materials manufactured for the purpose of being used for a cooking fire that do not conflict with the provisions of this Section Three - Part A.

C.) Recreational burning as permitted in this Ordinance shall be permitted only by use of metal receptacles, gas or wood stoves, gas or wood fire places, fire rings and other type apparatuses constructed or manufactured for the purpose of recreational burning using fuels that are in compliance with manufacturer's instructions; or in non-gas burning apparatuses using charcoal or charcoal briquettes; by burning dry split wood, dry twigs or other dry wood materials; or other burning materials manufactured for the purpose to be used for outdoor recreational burning that do not conflict with the provisions of this Section Three - Part A.

#### SECTION 4. - SPECIAL EXCEPTIONS

Notwithstanding any other provision of this Ordinance, the Borough Council or its designee may permit any burning requested by the local fire department or other entity upon written request voted on at a public meeting (e.i. request to hold a bonfire,); Other open fires may be set in the performance of an official duty by any public officer (including but not limited to the Mayor, Emergency Management Coordinator, and/or any other designee appointed by Patton Borough Council; or at the direction of the fire department, if such fire is deemed necessary for:

- a) The prevention of a fire hazard of a nuisance, which cannot be abated by others means.
- b) The protection of public health.

#### SECTION 5. - ENFORCEMENT / PENALTY

The Patton Borough Police Department is hereby authorized to act on behalf of the Borough to enforce the provisions of this Ordinance against the individual violator or violators or the owner /owners of the property on which the violation occurs. In the event the Patton Borough Police Department is unable to act, the Code Enforcement Officer of the Borough, if any, the Pennsylvania State Police, and/or any other designee appointed by Patton Borough Council to do so, is/are hereby authorized to act on behalf of the Borough to enforce the provisions of this Ordinance.

Any person, corporation, or entity who or which violates the provisions of this Ordinance shall, upon conviction before the Magisterial District Judge, pay a fine according to the following Schedule Plus the costs of prosecution and court fees:

First Offense -	\$100,00 plus costs and fees;
Second Offense -	\$200.00 plus costs and fees; and
Third Offense -	\$300,00 plus costs and fees.

Each day an offense occurs under the provisions of this ordinance shall constitute a separate offense. It is specifically provided that each day that a violation of this Ordinance exists and/or continues shall be deemed a separate violation punishable by a separate fine, penalty, cost, or late charge.

Nothing contained herein shall be construed as precluding the Borough, or any proper official, from proceeding against any violator under any other local, county, state or Federal laws or regulations. In the event that any person shall maintain and/or continue a violation of this Ordinance for more than one day as heretofore defined, the Council of Borough of Patton, upon determining that such violating condition exists or is being maintained, at its option may proceed singly or severally as follows: In the event such violating condition continues to exist for more than one day, the Borough may, whenever the Borough Council deems it appropriate, institute proceedings in the Courts of Equity to compel the removal, correction or abatement of such conditions, and to seek such other relief as the said Court is empowered to afford.

#### **SECTION 6. REPEALER**

All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

#### **SECTION 7. SEVERABILITY**

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, 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 Patton Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(§ Ord. No. 2009-08-01 "New Burning Ord. of 2009" , 10/13/2009; Repeals Ord. 296: "Refuse Disposal Ord. of 1973" 12/1973.)