

ORDINANCE NO. 896

AN ORDINANCE OF THE BOROUGH OF MOHNTON,  
BERKS COUNTY, PENNSYLVANIA, ESTABLISHING  
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 Mohnton 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 Mohnton Ordinance 317, 7/19/1979 §1; Ordinance 316, 7/19/1979 §2; Ordinance 317, 9/1/1971 §3; Ordinance 317, 7/19/1979 §4; Ordinance 317, 7/19/1979 §5; Ordinance 317, 7/19/1979 §6; Ordinance 317, 7/19/1979 §7; as amended by Ordinance 381, 4/12/1978; Ordinance 317, 7/19/1979 §8; as amended by Ordinance 478, 8/10/1988 are repealed and amended as follows:

**SECTION 1. 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 of Mohnton, except as authorized by this Ordinance or as authorized pursuant to a valid permit issued by Berks County pursuant to County Ordinances and Regulations.

**SECTION 2. Definitions**

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

B. *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 are emitted directly into the air without first passing through a structural stack or and being used for the purposes of non- food preparation, light, ornament or recreation and being such maximum size and using 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 3. Rules and Regulations Regarding Small Open Fires Authorized Without Permit.

A. *Permitted Receptacles/Containers* - All 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; or
2. A fireplace, chiminea, commercially fire pit designed specifically the purpose of containing a fire, or fire pit constructed of paving stones or manufactured blocks.

B. *Permitted Locations* - All small open fires authorized under this Ordinance are only permitted in the following locations:

1. 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.
2. Other open fires shall be maintained in an authorized container located not less than ten (10) feet from the nearest house, structure, inhabited area, roadway, property line, utility, tree or other combustible materials.

C. *Permitted Times* - All small open fires authorized under this Ordinance are permitted only during the hours of 10:00 a.m. and 11:00 p.m.

D. *Permitted Materials* - All small open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel and 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 waste, 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 fire.

E. *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, and 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 ensure that all aspects of the fire comply with this Ordinance and shall ensure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or noncompliant 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.

#### **SECTION 4. Police Authorized to Order Immediate Extinguishment, Abatement, or Correction of Fire.**

A Mohnton Police Officer or other duly authorized law enforcement officer of the Borough, the Borough's Fire Marshall, the Borough's Fire Chief, Deputy Fire Chief(s), or the Fire Chief's designee 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:

- A. Is emitting excessive smoke, excessive odor, or malodorous emissions;
- B. Contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- C. Is in a prohibited location or of a prohibited size;
- D. Is emitting sparks or hot ashes that may pose a to nearby structures, trees, other combustible materials, or to the safety of persons or property;

E. 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, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or party.

#### **SECTION 5. 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 Mohnton Police Officer or other duly authorized law enforcement officer of the Borough, the Borough's Fire Marshall, the Borough's Fire Chief, Deputy Fire Chief(s), or the Fire Chief's designee to contain, control, correct, or extinguish any fire or burning.

#### **SECTION 6. 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 less than Three Hundred Dollars (\$300.00) nor 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's fees associated with such action.

#### **SECTION 7. Severability**

In the event 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 8. Repealer**

It is the intention of the Borough Council of the Borough of Mohnton 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 insofar as the same affects this Ordinance.

SECTION 9. Effective Date

This Ordinance shall take effect immediately as provided under law.

DULY ORDAINED AND ENACTED into an ordinance by the Council of the Borough of Mohnton, Berks County, Pennsylvania, this 13<sup>th</sup> day of February, 2019.

MOHNTON BOROUGH COUNCIL

  
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
Secretary

APPROVED this 13<sup>th</sup> day of February, A.D., 2019.

  
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Mayor