

COPY

NORTH APOLLO BOROUGH
BURNING ORDINANCE

ORDINANCE NO. 275 OF 2002

2002-0181-Mis

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AN ORDINANCE OF THE BOROUGH OF NORTH APOLLO, ARMSTRONG COUNTY, COMMONWEALTH OF PENNSYLVANIA PROVIDING FOR AND REGULATING THE USE OF OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS, DESIGNING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATION.

I. SHORT TITLE

This Ordinance shall be known as "Burning Ordinance".

II. AUTHORITY

This Ordinance is enacted pursuant to Section 12 of the Air Pollution Control Act, as amended, 35 P.S. 4012(a).

III. DECLARATION OF PUBLIC POLICY

It is hereby declared to be a matter of public health and safety to regulate fires and open burning in North Apollo Borough for the following purposes:

1. Air pollution control;
2. Protection of building, housing and property; and
3. Protection of health, fire and public safety.

IV. DEFINITIONS

The following words and terms, when used in this Ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

1. *Burning*. The act of consuming by fire; to flame, char, scorch or blaze. As used in this Ordinance, smoldering shall have the same meaning as burning and any smoldering shall be deemed as burning.

2. *Domestic Refuse.* Waste which is generated from the normal occupancy of a structure occupied solely as a dwelling by two families or less. The term does not include appliances, carpets, demolition waste (insulation, shingles, siding, etc.), furniture, mattresses or box springs, paint, solvents, tires, treated wood or similar materials.

3. *Open Burning.* A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

4. *Persons.* Any individual, partnership, organization, association, agency, firm, state or corporation, and any other legal or commercial entity.

5. *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.

6. *Yard Waste.* Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative materials.

V. PROHIBITION ON BURNING

1. *Burning Prohibited.* It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, of any nature, within this Borough.

2. *Exceptions.* The following types of burning are permitted so long as such burning is in compliance with the general limitations listed below.

- a. A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program Office and set by or under the supervision of a public officer;
- b. Any fire set for the purpose of instructing fire fighting personnel, when approved by the Department of Environmental Protection's Regional Air Quality Program Office;
- c. A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program Office; and
- d. Fire used for food preparation purposes, fueled by wood, charcoal or gas and confined in a metal or masonry appliance designed for such use, provided that (1) the fire is supervised; (2) the size of fire does not present a fire spread dangers; and (3) the fire is being expressly for the preparation for non-commercial human consumption.

A. *General Limitations.*

- a. **Control of Burning and Unattended Fires.** No permitted fires shall be allowed to burn unattended without a responsible adult being present at all times and without readily available fire extinguishing apparatus.
- b. **Drought/Extreme Weather.** Burning permitted pursuant to this Ordinance shall not be permitted whenever drought or extreme weather conditions exist or when a ban on open burning has been placed into effect by the Commonwealth of Pennsylvania or any other competent governmental body. The Borough Council may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make sure fires hazardous.
- c. **Yard Waste and Domestic Refuse.** Burning of yard waste and domestic refuse is strictly prohibited.
- d. **Unlawful Substances.** Burning of construction debris, plastics, by-products of manufacturing and processing operations, waste from commercial operations is strictly prohibited.

VI. EXTINGUISHING UNSAFE FIRE

Any fire set or allowed to burn in violation of this Ordinance may be extinguished by the North Apollo Borough Volunteer Fire Department or other authorized body, without prior notice to the landowner. In the event that a fire company is required to respond to a fire which violates this Ordinance, a service fee shall be levied by the responding fire company.

VII. ENFORCEMENT

1. *Sanctions.* Any person, whether as principal or agent, who violates this Ordinance or assists or abets its violation, shall upon conviction thereof, before any magistrate, be sentenced to pay a fine of not less than \$50.00, nor more than \$300.00.

2. *Equitable and Other Remedies.* No penalties herein shall prevent the Borough from enforcing this Ordinance by equitable, injunctive and other available remedies.

3. North Apollo 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 this Ordinance. The individual person or party

responsible for any such fires shall bear sole responsibility and liability for any damages caused as a result thereof.

VIII. 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 hereby declared as the intent of North Apollo 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.

IX. REPEALER

All Ordinance or parts of Ordinances which are inconsistent and/or conflicting herewith are hereby repealed.

ORDAINED AND ENACTED THIS 3rd DAY OF June, 2002.

Eugene T. Burns
EUGENE T. BURNS, President

ATTEST:

Edward V. Stitt Jr.
EDWARD STITT, Borough Secretary

APPROVED:

Edward Adams Jr.
Mayor

I HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE AND CORRECT COPY OF N. Apollo
Burning Ordinance
2002-0181-Misc
Brenda C. George/mc
MY COMM. EXPIRES 1/31
MON. JAN. 20 14