

ORDINANCE NO. 429-2012

AN ORDINANCE OF THE BOROUGH OF SHOEMAKERSVILLE, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NUMBER 255 AND ENACTING AN ORDINANCE TO BE KNOWN AS THE "BOROUGH OF SHOEMAKERSVILLE OPEN BURNING ORDINANCE" WHICH SHALL REGULATE OPEN BURNING AND RECREATIONAL FIRES WITHIN THE BOROUGH OF SHOEMAKERSVILLE.

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

WHEREAS, the Borough Council of the Borough of Shoemakersville desires to adopt regulations regarding open burning in order to reduce the effects of open burning on the health, comfort, living conditions, welfare and safety of the citizens of the Borough of Shoemakersville.

NOW, THEREFORE, be it enacted and ordained, and it is hereby adopted, enacted and ordained by the Borough Council of the Borough of Shoemakersville, Berks County, Pennsylvania as follows:

SECTION 1. Ordinance No. 255 of the Borough of Shoemakersville is hereby repealed in its entirety.

SECTION 2. The Borough of Shoemakersville hereby adopts an Ordinance to be known as the "Borough of Shoemakersville Open Burning Ordinance." Said Ordinance shall read as follows:

**OPEN BURNING AND RECREATIONAL FIRES**

**§ 1. General.** A person, organization, business or any other entity shall not kindle or maintain or authorize to be kindled or maintained any open burning, within the boundaries of the Borough of Shoemakersville, unless conducted and approved in accordance with this Ordinance.

**§ 2. General Fire Restrictions.**

- a. **It shall be unlawful for any fire to be set or maintained within fifty (50") of any structure of property line within the Borough except for fires contained within outdoor fireplaces (e.g. chimneas) and/or outdoor cooking appliances (e.g. charcoal or gas grills) which are subject to the following restrictions:**

1. **All outdoor fireplaces and or outdoor cooking appliances must be set at least five (5') from any structure vertical as well as horizontally.**

**2. All outdoor cooking appliances shall be set at least fifteen (15') from any boundary line.**

**3. All outdoor cooking appliances shall be fueled by charcoal, wood or propane gas. No other materials may be utilized as fuel or burned in any approved outdoor fireplace or cooking appliance.**

**4. All other restrictions contained herein.**

- b. No fire shall be set or maintained on any public road or public property within the Borough.**
- c. No fire shall be set or maintained which may endanger any building or property, except where such building or property is used by a fire department for training purposes.**
- d. Any fire permitted by this Ordinance shall be maintained and attended by a competent adult who shall have an approved fire extinguisher readily available.**
- e. Any person, organization, corporation, business or other entity who or which starts or maintains a fire in the Borough shall be fully liable to any property owner who sustains damage as a result of the negligence of such person or entity.**
- f. No hazardous materials or hazardous wastes of any kind may be burned within the Borough.**
- g. No conditions which are deemed by the Borough to be hazardous to human health or otherwise dangerous or objectionable shall be created by such burning.**
- h. When smoke or ash emission are or may be objectionable, offensive or deleterious to human or animal health or permeate or cross into neighboring properties, and or falls on buildings, vehicles or vegetation.**
- i. When weather conditions, including but not limited to extreme dry conditions or drought warrant a ban on all burning, and /or a state-wide or Borough-wide drought emergency is declared.**

**§3. Exceptions/Permit Required.** A permit shall be obtained from the Borough in accordance with this Section prior to kindling a fire for authorized bonfires or recreational fires. Applications for such approval shall only be

presented by and permits issued to the owner of land upon which the authorized fire is to be kindled.

**§ 4. Prohibited Open Burning.** In no event shall the burning of designated recyclables and yard waste be permitted. Furthermore, the fire chief is authorized to order the extinguishment by the permit holder or the fire department of open burning which is unauthorized or which creates or adds to a hazardous or objectionable situation.

**§ 5. Bonfires.** A bonfire shall not be conducted within fifty feet (50') (15,240 mm) of a structure or combustible material unless the fire is contained in a barbeque pit. Conditions which could cause a fire to spread within fifty feet (50') (15,240 mm) of a structure shall be eliminated prior to ignition. Additionally, bonfires shall be subject to the conditions listed in §1 above.

**§ 6. Recreational Fires.** Recreational fires shall not be conducted within twenty-five feet (25') (7,620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within twenty-five feet (25') (7,620 mm) of a structure shall be eliminated prior to ignition. Additionally, recreational fires shall be subject to the conditions listed in §1 above.

**§ 7. Attendance.** Open burning, as authorized by this Section, shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

**SECTION 3. Penalties.** The Fire Chief and or the Borough Code Enforcement Officer shall be empowered to enforce any violation of the provisions of this Ordinance. Any person violating this Ordinance or neglecting to comply with any order, permit, or notice issued pursuant hereto for violation of any section hereto, shall be subject to the payment of a fine of not less than 250.00 or more than one thousand dollars (\$1,000.00) and the payment of costs, if any, for the prosecution for each offense. Each day's continuance of any violation of this Ordinance shall constitute a separate offense, punishable by a separate fine.

**SECTION 4. Repeal of Ordinances.** Any ordinance or part of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provisions.

**SECTION 5. Severability.** If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is for any reason declared to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the within Ordinance. The Borough Council of the Borough of Shoemakersville, Berks County, Pennsylvania hereby declares that it would have adopted the

within Ordinance any each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions sentences, clauses, phrases or words that may be declared illegal, invalid or unconstitutional.

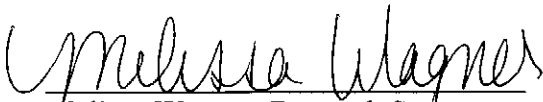
SECTION 6. Effective Date. This Ordinance shall become effective on the earliest date permitted by law.

SECTION 7. Other Ordinances. All other ordinances of the Borough of Shoemakersville, Berks County, Pennsylvania shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance.


ENACTED AND ORDAINED as an Ordinance of the Borough of Shoemakersville, Berks County, Pennsylvania this 4th day of December, 2012.

BOROUGH OF SHOEMAKERSVILLE

ATTEST:

  
Melissa Wagner, Borough Secretary

By:

  
Clark Zimmerman, President of Borough Council

Approved this 4th day of December, 2012

  
Richard Kepner, Mayor