

**ORDINANCE NO. 440
PARKESBURG BOROUGH
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF PARKESBURG, CHESTER COUNTY, PENNSYLVANIA, PROHIBITING "OPEN BURNING" WITHIN THE MUNICIPAL LIMITS OF THE BOROUGH OF PARKESBURG, PROVIDING FOR EXCEPTIONS TO THE GENERAL PROHIBITION, ESTABLISHING LIMITATIONS ON THE EXCEPTIONS TO THE GENERAL PROHIBITION, CONTAINING ENFORCEMENT AND PENALTY PROVISIONS, REPEALING CONFLICTING ORDINANCES OR PARTS THEREOF, AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Parkesburg, Chester County, Pennsylvania, and it is hereby enacted by the authority of the same:

SECTION I. SHORT TITLE

- A. This Ordinance shall be known and may be cited as the "Parkesburg Borough Open Burning Ordinance."

SECTION II. DEFINITIONS

- A. "Borough": The Borough of Parkesburg, Chester County, Pennsylvania.
- B. "Open Burning": The burning of any material or combination of materials where the products of combustion are emitted directly into the ambient air without first passing through a stack or chimney from an enclosed chamber inside of any building. For purposes of this definition, a chamber is considered "enclosed" when, during the time combustion is taking place, the only apertures, ducts, stacks, flutes or chimneys open to the outside air are those necessary to admit combustion air or those necessary to permit the escape of exhaust gases from the fire to the outside of any building, and then into the ambient air.
- C. "Recreational Fire": An outdoor fire utilized to cook food for human consumption.
- D. "Person": Any individual, partnership, association, corporation, department, bureau, agency or other similar legal entity.
- E. "Outdoor Barbeque Structure": Any commercially constructed grill or commercially or non-commercially constructed masonry grill used for the purpose of heating, cooking and preparing food for the purpose of consumption.

SECTION III. PROHIBITION AGAINST OUTDOOR BURNING

- A. Within the municipal limits of the Borough, no person shall cause, allow, permit, kindle, ignite or maintain any open burning outside of any building for any purpose, including by way of example and not by way of limitation, any junk fire, refuse fire, open fire, salvage operation fire, or any other open fire.

SECTION IV. EXCEPTIONS

- A. The prohibition against open burning as set forth in Section III, above, shall not apply to:
 - 1. Any fire ignited to prevent or abate a fire hazard;
 - 2. Any fire ignited for the purpose of instructing firefighting personnel or to demolish a fire hazard (including a structure or structures);.
 - 3. Any fire ignited for the prevention and control of disease or pests;
 - 4. Any fire ignited in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of a farm operation; and
 - 5. Any fire ignited solely for ceremonial purposes, such as a bonfire.
- B. The exceptions listed in Section IV.A., above, shall be permitted if and only if any open burning done pursuant to these exceptions are:
 - 1. Authorized by the Parkesburg Borough Council;
 - 2. Done under the supervision of a Member of the Parkesburg Fire Department No. 1; and
 - 3. To the extent required, authorized by a permit duly issued by the Commonwealth of Pennsylvania Department of Environmental Protection ("DEP").

SECTION V. EXEMPTION FOR RECREATIONAL FIRES

- A. It shall be lawful at any time for any person to start kindle and maintain a recreational fire for the purpose of outdoor barbeques, provided that such fire is confined to an outdoor barbeque structure as defined herein, and is used solely for the heating, cooking, and preparation of food products for the purpose of consumption.

SECTION VI. AUTHORITY TO EXTINGUISH OUTDOOR FIRES

- A. Authority is hereby granted to the Parkesburg Fire Company No. 1 to extinguish any fire of any nature within the Borough when the Fire Chief or, in his absence, the highest acting officer of the Fire Department deems that conditions warrant such action.

SECTION VII. PENALTIES

- A. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) plus costs of prosecution.

SECTION VIII. SEVERABILITY

- A. If any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the constitutionality, legality, or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal, or invalid.

SECTION IX. REPEAL OF CONFLICTING ORDINANCES

- A. All existing Ordinances of the Borough of Parkesburg or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION X. EFFECTIVE DATE

- A. This Ordinance shall become effective ten (10) days upon enactment.

ORDAINED AND ENACTED by the Council of the Borough of Parkesburg in a Public Meeting held this 12th day of November, 2001.

ORDINANCE NO. 500

BOROUGH OF PARKESBURG CHESTER COUNTY, PENNSYLVANIA AN ORDINANCE AMENDING ORDINANCE 440 GOVERNING AND DEFINING "OPEN BURNING" TO ADD A NEW DEFINITION UNDER SECTION II. F. "PORTABLE OUTDOOR FIREPLACE" AND TO ADD A NEW EXEMPTION FOR RECREATIONAL FIRES UNDER SECTION V. B. TO PERMIT THE APPROPRIATE REGULATED USE OF PORTABLE OUTDOOR FIREPLACES

WHEREAS, the Current Ordinance No. No. 440 regulating and defining "Open Burning" within the Municipal Limits of the Borough of Parkesburg currently does not appropriately address the common use of chimineas, outdoor grills and similar heating and cooking devices (other than masonry outdoor barbeque structures), but prohibits same; and,

WHEREAS, The Parkesburg Borough Council in conjunction with the Parkesburg Fire Department has sought to determine an appropriate means of permitting the use of such recreational cooking and heating devices consistent with concepts of fire safety and has determined that Ordinance No. 440 should be amended to specifically permit recreational fires previously prohibited where a "Portable Outdoor Fireplace" as defined in the amendments to the Ordinance is properly used.

NOW THEREFORE, in consideration of the forgoing, the Council of the Borough of Parkesburg, Chester County, Pennsylvania, hereby ORDAINS that Ordinance No. 440 regulating and defining "Open Burning" within the Municipal Limits of the Borough of Parkesburg shall be amended by the addition of the following language to the sections as herein identified:

1. In Section II. setting forth "Definitions", the following new definition under new subsection F. shall be added stating as follows:

"Portable Outdoor Fireplace" An appliance or device commercially manufactured out of non-combustible materials such as steel, concrete or clay, to burn solid fuel (or propane, gas or other appropriate regulated fuel) out of doors for the express purpose of recreation, heating, cooking or preparing food for consumption."

2. In Section V identifying "Exemption for Recreational Fires", the following new exemption under new subsection B. shall be added stating as follows:

"It shall be lawful at any time for any person to utilize a Portable Outdoor Fireplace provided such device is used according to the manufacturer's instruction (but never, even if manufactured for such purpose, for the disposal of municipal waste or recyclable materials). A Portable Outdoor Fireplace shall at all times be a operated at a minimum of fifteen feet from any structure or combustible material and constant adult attendance and observation is required at all times until the fire is completely extinguished."

3. All other terms and conditions of Ordinance No. 440 shall remain in full force and effect.

4. EFFECTIVE DATE: This Ordinance shall become effective immediately upon enactment.

ORDAINED and ENACTED by the Parkesburg Borough Council this 21st day of May, 2012.