

WAMPUM BOROUGH

ORDINANCE NO. 273

AN ORDINANCE OF THE BOROUGH OF WAMPUM REGULATING ALL BURNING ACTIVITIES WITHIN THE BOROUGH AND PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.

BE IT ENACTED AND ORDAINED BY THE BOROUGH COUNCIL FOR THE BOROUGH OF WAMPUM, PENNSYLVANIA, LOCATED IN LAWRENCE COUNTY. THIS ORDINANCE SHALL BE KNOWN AND MAY BE CITED AS THE WAMPUM BOROUGH OPEN BURNING ORDINANCE.

SECTION I

BURNING OPERATION – AS USED WITHIN THIS ORDINANCE, "BURNING OPERATION" SHALL HAVE THE FOLLOWING MEANING: "THE IGNITING OF ANY MATERIAL TO CAUSE FLAME, SMOKE EMBERS, HOT ASH OR RESIDUE, IN COMBINATION OR INDIVIDUALLY.

SECTION II

1. NO PERSON SHALL CAUSE, SUFFER OR PERMIT THE OPEN BURNING OF MATERIAL EXCEPT AS ALLOWED IN SECTION III OF THIS ORDINANCE.
2. NO PERSON SHALL CAUSE, SUFFER OR PERMIT ANY OPEN BURNING OPERATION, IF SAID OPEN BURNING OPERATION IS CONTRARY TO THE RULES AND REGULATIONS OF THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION.
2. NO PERSON SHALL CAUSE, SUFFER OR PERMIT ANY OPEN BURNING OPERATIONS IF SAID OPEN BURNING OPERATION IS CONTRARY TO SECTION 610 OF THE SOLID WASTE MANAGEMENT ACT (35 P.S. 6018.610 (BURNING SOLID WASTES WITHOUT A PERMIT)
3. NO PERSON SHALL CAUSE OR PERMIT ANY OPEN BURNING OPERATION IF SAID OPERATION ADVERSELY AFFECTS ANY OTHER PERSON, THEIR

PROPERTY OR THEIR REASONABLE ENJOYMENT OF THEIR PROPERTY.

SECTION III

EXCEPTIONS TO THE BAN ON OPEN BURNING, AS ALLOWED UNDER 25 PA. CODE 129.14.

1. A FIRE SET TO PREVENT OR ABATE A FIRE HAZARD, WHEN APPROVED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND SET BY OR UNDER THE SUPERVISION OF A PUBLIC OFFICER.
2. ANY FIRE SET FOR THE PURPOSE OF INSTRUCTING PERSONNEL IN FIRE FIGHTING, WHEN APPROVED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION.
3. A FIRE SET FOR THE PREVENTION AND CONTROL OF DISEASE OR PESTS, WHEN APPROVED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION.
4. A FIRE SET IN CONJUNCTION WITH THE PRODUCTION OF AGRICULTURAL COMMODITIES IN THEIR UNMANUFACTURED STATE ON THE PREMISES OF THE FARM OPERATION.
5. A FIRE SET FOR THE PURPOSE OF BURNING DOMESTIC REFUSE, WHEN THE FIRE IS ON THE PREMISES OF A STRUCTURE OCCUPIED SOLELY AS A DWELLING BY TWO FAMILIES OR LESS AND WHEN THE REFUSE RESULTS FROM THE NORMAL OCCUPANCY OF THE STRUCTURE.
6. A FIRE SET SOLELY FOR RECREATIONAL OR CEREMONIAL PURPOSE.
7. A FIRE SET SOLELY FOR COOKING FOOD.
8. A FIRE SET SOLELY FOR CLEARING AND GRUBBING WASTE. CLEARING AND GRUBBING WASTE INCLUDES TREES, SHRUBS AND OTHER NATIVE VEGETATION WHICH ARE CLEARED FROM LAND DURING OR PRIOR TO THE PROCESS OF CONSTRUCTION. THE TERM DOES NOT INCLUDE DEMOLITION WASTES AND DIRT LADEN ROOTS.

SECTION IV

WHEN BURNING AS ALLOWED IN THE EXCEPTIONS IN SECTION III, NO PERSON SHALL BURN ANY PRODUCT OR MATERIAL WHICH CREATES NOXIOUS OR OBJECTIONABLE EMISSIONS. THESE PRODUCTS AND MATERIALS INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:

- A. TIRES AND OTHER RUBBER PRODUCTS, INCLUDING TUPPERWARE.
- B. ROOF SHINGLES
- C. WIRE INSULATION
- D. PLASTIC AND VINYL PRODUCTS AND STYROFOAM
- E. FIBER GLASS
- F. DIRT LADEN ROOTS AND TREE STUMPS
- G. DIAPERS
- H. HUMAN/ANIMAL WASTE
- I. ANIMAL HIDES, FURS OR SKINS
- J. ASBESTOS-CONTAINING MATERIALS
- K. PAINT, OIL, OR OTHER PETROLEUM PRODUCTS
- L. LEAVES
- M. MAGAZINES

NO PERSON SHALL BURN DEMOLITION WASTES INCLUDING STANDING BUILDINGS, UNLESS PERMIT HAS FIRST BEEN GRANTED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.

SECTION V

WHEN BURNING AS ALLOWED IN ONE OF THE EXCEPTIONS IN SECTION III OF THIS ORDINANCE, THE FOLLOWING REGULATIONS AND RESTRICTIONS MUST BE STRICTLY ADHERED TO:

- A. EVERY FIRE ALLOWED UNDER SECTION II, PARTS 5, 6, AND 7, SHALL BE BUILT IN AND CONFINED TO A NON-COMBUSTIBLE CONTAINER, CONTAINING A BOTTOM AND SIDES, COVERED WITH A SCREEN OF 1/2 OR SMALLER MESH.
- B. NO SUCH CONTAINER SHALL BE LARGER THAN A 55 GALLON DRUM.
- C. NO FIRE ALLOWED UNDER SECTION III SHALL BE CLOSER THAN 10 FEET FROM ANY BUILDING OR FROM ANY PROPERTY LINE, ALLEY OR STREET.
- D. NO FIRE ALLOWED UNDER SECTION III SHALL BE ALLOWED TO BURN UPON ANY DAY EXCEPT BETWEEN THE HOURS OF 7:00 A.M. PREVAILING TIME AND 7:00 P.M. PREVAILING TIME.
- E. NO BURNING OF ANY KIND SHALL BE PERMITTED ON SUNDAY AND HOLIDAYS.
- F. NO PERSON SHALL USE AN OPEN BURNING OPERATION AS A METHOD OF SALVAGING ANY PRODUCT OR MATERIAL.

SECTION VI

CLEARING AND GRUBBING WASTE

WHEN CLEARING AND GRUBBING WASTE VIA OPEN BURNING, AS ALLOWED IN SECTION III, THE FOLLOWING REGULATIONS, AS SET OUT IN 25 PA.CODE 129.14, MUST BE STRICTLY ADHERED TO:

- A. AIR CURTAIN DESTRUCTORS SHALL BE USED. AN AIR CURTAIN DESTRUCTOR IS A MECHANICAL DEVICE WHICH FORCEFULLY PROJECTS A CURTAIN OF AIR ACROSS A PIT IN WHICH OPEN BURNING IS BEING CONDUCTED SO THAT COMBUSTION EFFICIENCY IS INCREASED AND SMOKE AND OTHER PARTICULATE MATTER ARE CONTAINED.
- B. EACH PROPOSED USE OF AIR CURTAIN DESTRUCTORS SHALL BE REVIEWED AND APPROVED BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION IN WRITING WITH RESPECT TO EQUIPMENT ARRANGEMENT, DESIGN AND EXISTING ENVIRONMENTAL CONDITIONS PRIOR TO COMMENCEMENT OF BURNING. PROPOSALS APPROVED UNDER THIS SUBPARAGRAPH NEED NOT OBTAIN PLAN APPROVAL OR OPERATING PERMITS UNDER 25 PA.CODE CHAPTER 127 RELATING TO CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES.
- C. APPROVAL FOR USE OF AN AIR CURTAIN DESTRUCTOR AT ONE SITE MAY BE GRANTED FOR A SPECIFIED PERIOD NOT TO EXCEED 3 MONTHS, BUT MAY BE EXTENDED FOR ADDITIONAL LIMITED PERIODS UPON FURTHER APPROVAL BY THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION.
- D. THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION HAS RESERVED THE RIGHT TO RESCIND ANY APPROVAL GRANTED IF A DETERMINATION BY THE DEPARTMENT INDICATES THAT AN AIR POLLUTION PROBLEM EXISTS.

SECTION VII

ENFORCEMENT

THE BOROUGH OF WAMPUM, MAYOR, CHIEF OF POLICE OR POLICE PATROLMEN SHALL HAVE THE POWER AND DUTY TO ENFORCE THE PROVISIONS OF THE ORDINANCE ALONG WITH ANY OTHER DULY AUTHORIZED AGENT.

SECTION VIII

PENALTIES

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ORDINANCE OR ANY ORDER OF THE BOROUGH OF WAMPUM ISSUED PURSUANT TO THIS ORDINANCE COMMITS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100.00) NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS(\$2,500.00) FOR EACH SEPARATE OFFENSE AND, IN DEFAULT OF THE PAYMENT OF SUCH FINE, MAY BE SENTENCED TO IMPRISONMENT FOR NINETY(90) DAYS FOR EACH SEPARATE OFFENSE. EMPLOYEES OF THE BOROUGH OF WAMPUM AUTHORIZED TO CONDUCT INSPECTIONS OR INVESTIGATIONS ARE HEREBY DECLARED TO BE LAW ENFORCEMENT OFFICERS AUTHORIZED TO ISSUE OR FILE CITATIONS FOR SUMMARY VIOLATIONS UNDER THIS ORDINANCE, AND THE BOROUGH OF WAMPUM SOLICITOR IS HEREBY AUTHORIZED TO PROSECUTE THESE OFFENSES. FOR PURPOSES OF THIS SECTION, A SUMMARY OFFENSE MAY BE PROSECUTED BEFORE ANY DISTRICT JUSTICE WHOSE JURISDICTION INCLUDES THE BOROUGH OF WAMPUM. THERE IS NO ACCELERATED REHABILITATIVE DISPOSITION AUTHORIZED FOR A SUMMARY OFFENSE.

FOR ANY VIOLATION OF A PROVISION OF THIS ORDINANCE OR ANY ORDER ISSUED PURSUANT TO THIS ORDINANCE, THE BOROUGH OF WAMPUM MAY ASSESS A CIVIL PENALTY FOR THE VIOLATION, WHETHER OR NOT THE VIOLATION WAS WILLFUL. THIS CIVIL PENALTY SHALL NOT EXCEED \$25,000.00 PER DAY FOR EACH VIOLATION. IN DETERMINING THE AMOUNT OF THE PENALTY, THE BOROUGH OF WAMPUM SHALL CONSIDER THE WILLFULNESS OF THE VIOLATION; DAMAGE TO AIR, SOIL, WATER, OR OTHER NATURAL RESOURCES OF THE BOROUGH OF WAMPUM OF THEIR USES; FINANCIAL BENEFIT TO THE PERSON IN CONSEQUENCE OF THE VIOLATION; DETERRENCE OF FUTURE VIOLATIONS; COST TO THE BOROUGH OF WAMPUM; THE SIZE OF THE SOURCE OR FACILITY; THE COMPLIANCE HISTORY OF THE SOURCE; THE SEVERITY AND DURATION OF THE VIOLATION; DEGREE OF COOPERATION IN RESOLVING THE VIOLATION; THE SPEED WITH WHICH COMPLIANCE IS ULTIMATELY ACHIEVED; WHETHER THE VIOLATION WAS VOLUNTARILY REPORTED; OTHER FACTORS UNIQUE TO THE OWNERS OR OPERATORS OF THE SOURCE OR FACILITY; AND OTHER RELEVANT FACTORS. THE BOROUGH OF WAMPUM SHALL ASSESS CIVIL PENALTIES UNDER THIS ORDINANCE ACCORDING TO THE GUIDELINES SET OUT IN 35 P.S. 4009.1(b).

SECTION IX

UNLAWFUL CONDUCT

IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH OR TO CAUSE OR ASSIST IN

THE VIOLATION OF ANY OF THE PROVISIONS OF THIS ORDINANCE OR TO FAIL TO COMPLY WITH ANY ORDER OR OTHER REQUIREMENT OF THE BOROUGH OF WAMPUM; OR TO CAUSE A PUBLIC NUISANCE; OR TO CAUSE AIR, SOIL, OR WATER POLLUTION RESULTING FROM AN OPEN BURNING INCIDENT; OR TO HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH THE BOROUGH OF WAMPUM OR ITS PERSONNEL IN THEIR PERFORMANCE OF ANY DUTY HEREUNDER, INCLUDING DENYING THE ENFORCEMENT AGENTS LISTED IN SECTION VII OF THIS ORDINANCE IN THEIR PERFORMANCE OF ANY DUTY HEREUNDER, INCLUDING DENYING SUCH ENFORCEMENT AGENT ACCESS TO THE SOURCE OR FACILITY. THE OWNER OR OPERATOR OF AN OPEN BURNING SOURCE SHALL NOT ALLOW POLLUTION OF THE AIR, WATER OR OTHER NATURAL RESOURCES OF THE BOROUGH OF WAMPUM TO RESULT FROM THE SOURCE.

SECTION X

PUBLIC NUISANCE

A VIOLATION OF THIS ORDINANCE OR OF ANY ORDER ISSUED BY THE BOROUGH OF WAMPUM UNDER THIS ORDINANCE SHALL CONSTITUTE A PUBLIC NUISANCE. THE BOROUGH OF WAMPUM SHALL HAVE THE AUTHORITY TO ORDER ANY PERSON CAUSING A PUBLIC NUISANCE TO ABATE THE PUBLIC NUISANCE. IN ADDITION, WHEN ABATING A PUBLIC NUISANCE, THE BOROUGH OF WAMPUM MAY RECOVER THE EXPENSES OF ABATEMENT FOLLOWING THE PROCESS FOR ASSESSMENT AND COLLECTION OF A CIVIL PENALTY CONTAINED IN SECTION VIII. WHENEVER THE NUISANCE IS MAINTAINED OR CONTINUED CONTRARY TO THIS ORDINANCE OR ANY ORDER ISSUED PURSUANT TO THIS ORDINANCE, THE NUISANCE MAY BE ABATABLE IN THE MANNER PROVIDED BY THIS ORDINANCE. ANY PERSON WHO CAUSES THE PUBLIC NUISANCE SHALL BE LIABLE FOR THE COST OF ABATEMENT.

SECTION XI

REPEALER

ALL ORDINANCES OR PARTS OF ORDINANCES WHICH ARE INCONSISTENT HEREWITH ARE HEREBY REPEALED. THE FOLLOWING ORDINANCES OR PARTS THEREOF ARE SPECIFICALLY REPEALED: NO. 156 OF 1966, WAMPUM BOROUGH, LAWRENCE COUNTY, PENNSYLVANIA.

SECTION XII

SEVERABILITY

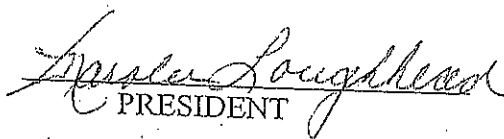
IF ANY SENTENCE, CLAUSE, SECTION; OR PART OF THIS ORDINANCE IS FOR ANY REASON FOUND TO BE UNCONSTITUTIONAL, ILLEGAL OR INVALID, SUCH

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 BOROUGH OF WAMPUM COUNCIL THAT THIS ORDINANCE WOULD HAVE BEEN ADOPTED HAD SUCH UNCONSTITUTIONAL, ILLEGAL OR INVALID SENTENCE, CLAUSE, SECTION OR PART THEREOF NOT BEEN INCLUDED HEREIN.

SECTION XIII

EFFECTIVE DATE: THIS ORDINANCE SHALL BECOME EFFECTIVE FIVE (5) DAYS AFTER ENACTMENT.

ENACTED AND ORDAINED THIS 14th DAY OF July, 2003, BY THE COUNCIL OF THE BOROUGH OF WAMPUM, LAWRENCE COUNTY, PENNSYLVANIA.


PRESIDENT

ATTEST:


SECRETARY

EXAMINED AND APPROVED THIS 18th DAY OF July, 2003.


MAYOR