

OPEN BURNING ORDINANCE FOR THE BOROUGH OF DERRY, COUNTY OF
WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA REPEALING
ORDINANCE NO. 674

Ordinance No. 727

COPY

SECTION 1: PURPOSE

1.00 Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Borough of Derry by regulating the air pollution and fire hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

2.00 Applicability.

This ordinance applies to all outdoor burning and open burning within the Borough of Derry.

- 2.1. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- 2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY

3.00 Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 4: DEFINITIONS

4.00 Definitions.

- 4.1. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- 4.2. "Clean wood" means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- 4.3. "Construction and demolition waste" means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- 4.4. "Fire Chief" means the Chief of the Borough of Derry or other person designated by the Fire Chief.
- 4.5. "Municipality" means a county, township, city, or village.
- 4.6. "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- 4.7. "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.
- 4.8. "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

- 4.9. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter, and includes Construction and demolition waste, hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents, furniture and appliances, and tires, any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers, newspaper, corrugated-cardboard, container board, office paper, treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING

5.00 General prohibition on open burning.

Open burning is prohibited in the Borough of Derry unless the burning is specifically permitted by this ordinance.

SECTION 6: OPEN BURNING OF REFUSE

6.00 Open burning of refuse.

Open burning of refuse is strictly prohibited.

SECTION 7: OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS

7.1. Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions

- 7.1.1. Except for Camp Fires, open burning of trees, logs, brush, and stumps shall only be conducted on the first and third Wednesday and the second and fourth Saturday of each month. Burning shall be permitted on each of those days from dawn to dusk.
- 7.1.2. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- 7.1.3. Open burning shall be conducted only on the property on which the materials were generated.
- 7.1.4. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.
- 7.1.5. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
- 7.1.6. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

SECTION 8: LIABILITY

8.00 Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 9: RIGHT OF ENTRY AND INSPECTION

9.00 Right of entry and inspection.

The Fire Chief or any authorized officer, agent, employee or representative of the Borough of Derry who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 10: ENFORCEMENT AND PENALTIES

10.00 Enforcement and penalties.

10.1. The Fire Chief and Derry Borough Police Department are authorized to enforce the provisions of this ordinance.

10.2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized Order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction which shall be punishable by civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1 st Offense within 3-year period*	\$75.00	\$500.00
2 nd Offense within 3-year period*	\$150.00	\$500.00
3 rd Offense within 3-year period*	\$325.00	\$500.00
4 th or More Offense within 3-year period*	\$500.00	\$500.00

*Determined on the basis of the date of commission of the offense(s)

10.3. The violator shall pay costs which may include all expenses, direct and indirect, which the Borough of Derry has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$100.00 be ordered. In addition, the Borough shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance.

This Ordinance shall become effective on _____.

ORDAINED AND ENACTED by the Council of the Borough of Derry this ____ day of _____, 2009.

Lori Latta, Secretary
Borough of Derry

President, Borough Council
Borough of Derry

EXAMINED and APPROVED this ____ day of _____, 2009.

Mayor, Borough of Derry