

**BOROUGH OF CLARKS SUMMIT  
COUNTY OF LACKAWANNA  
COMMONWEALTH OF PENNSYLVANIA  
ORDINANCE NO. 2022-02**

**AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT  
RESTRICTING AND REGULATING OPEN FIRES  
AND PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF.**

WHEREAS, the Borough of Clarks Summit (the “Borough”) is a duly organized and existing municipality and political subdivision located in the County of Lackawanna, Commonwealth of Pennsylvania with offices located at 304 South State Street, Clarks Summit, Pennsylvania 18411; and

WHEREAS, the Borough is subject to the Pennsylvania Borough Code, as found at 8 Pa.C.S.A. §101, *et seq.* (the “Borough Code”); and

WHEREAS, pursuant to Section 1202(5) of the Borough Code, the Borough has the authority to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough. *See* 8 Pa. C.S.A. §1202(5); and

WHEREAS, Borough Council finds that unregulated, open burning within the Borough limits represents a potential hazard and risk of fire within the Borough; and

WHEREAS, such a risk of fire within the Borough represents an unnecessary risk of harm to Borough residents and Borough firefighters; and

WHEREAS, Borough Council finds that unregulated, open burning represents a nuisance to Borough residents through smoke trespassing onto other property owners’ property; and

NOW, THEREFORE, be it ORDAINED by the Borough Council of Clarks Summit that Ordinance 96-14 is repealed and amended as follows:

**SECTION 1. General Prohibition Prohibiting Fires and Burning Without Permit.**

From and after the effective date of this Ordinance, no person, corporation, partnership, association, organization or other group whatsoever shall burn any materials of any kind in the Borough of Clarks Summit, except as authorized by the Ordinance or as authorized pursuant to a valid permit issued by the Clarks Summit Borough Fire Department.

## **SECTION 2. Definitions.**

CHIMNEA – freestanding front-loading fireplace or oven with a bulbous body and usually a vertical smoke vent or chimney.

FURNACE – any enclosed device specifically designed for burning any material for the production of heat.

GARBAGE – all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR – any device specifically designed for the destruction by burning or refuse, sewerage sludge, or any other material.

OPEN FIRE – a fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

PERMIT – A burning permit as issued by the Clarks Summit Borough Fire Chief or his designee.

REFUSE – garbage, rubbish and trade waste.

RUBBISH – solids not considered to be highly flammable or explosive including but not limited to rags, old clothes, leather, rubber, carpets, woods, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.

SMALL OPEN FIRE – a fire contained within a grill, outdoor barbeque, fireplace or similar device to cook food with charcoal, natural gas or wood; or any other fire from which the properties of are emitted directly into the air without first passing through a structural stack or and being used for the purposes of non-food preparation, light, ornament or recreation and being such maximum size and using such materials as authorized hereunder, and otherwise complying with this Ordinance, and conducted in such location, conditions, and in a manner which contributes only a negligible amount of air contaminants.

## **SECTION 3. Rules and Regulations Regarding Small Open Fires Authorized Without a Permit.**

- A. **Permitted receptacles/containers** – All small open fires authorized under this Ordinance must be contained within of the following authorized containments:

1. A grill or barbeque designed for the purpose of the preparation of food for human consumption; or
2. A fireplace, chimnea, commercial firepit designed specifically for the purpose of containing a fire, or fire pit constructed of paving stones or manufactured blocks.

B. **Permitted locations** – All small open fires authorized under this Ordinance are only permitted in the following locations:

1. Grills, outdoor barbeques, or fireplaces designed for and used strictly for cooking only shall be no less than five (5) feet from a house, structure, inhabited area, roadway, utility, or property line.
2. Other open fires shall be maintained in an authorized container located not less than ten (10) feet from the nearest house, structure, inhabited area, roadway, property line, utility, tree or other combustible materials.

C. **Permitted Times** – All small open fires authorized under this Ordinance are permitted only during the hours of 10:00a.m. and 11:00p.m.

D. **Permitted Materials** – All small open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel and dry, clean logs, twigs or other wood products. Only smokeless fuels, or small kindling, if any, may be used to start a fire. No materials that tend to cause excessive or malodorous emissions or excessive smoke may be used to start or maintain a fire.

E. **Maximum size** – In all cases, the fire shall be of such size that the combustible material and flame are contained completely within the perimeter of the authorized containment receptacle, and in no case may the combustible material and flame be greater than nine (9) square feet in area or in excess of three (3) feet in height above the receptacle.

F. **Adult supervision, Control and Extinguishment** – Only an adult property owner or another adult authorized by the property owner may conduct a small open fire. Such adult must be present while the fire is burning. Adequate means to control and extinguish the open fire shall be available at all times.

#### **SECTION 4. Open fires requiring a permit.**

- A. Open fires may be set without a permit in the performance of an official duty by any public officer, or by the Borough Fire Department, is the fire is necessary for:
- i. The prevention of a fire hazard which cannot be abated by other means; or
  - ii. The protection of public health; or

iii. Training exercise to be conducted by the Borough Fire Department.

- B. Open fires, for the purpose of burning, may be allowed only after the issuance of a permit by the Borough Fire Chief or their designee. The permit may limit the scope of the burning by setting forth times of day burning is permitted, the length of time burning can occur, parameters regarding required supervision of an open fire, the requirement for a nearby water source, and the need to notify the Borough fire department through the Lackawanna County Communication Center prior to any burning. The permit may be revoked at any time by the Borough Fire Chief or designee if any of the requirements set forth in the permit are not followed, or if in the discretion of the Fire Chief, the permit is being misused in any way.

### **SECTION 5. Police authorized to Order Immediate Extinguishment, Abatement, or Correction of Fire.**

A Borough police officer, the Borough Fire Chief or Fire Chief's designee may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected if in that officer's discretion, the fire:

- A. Is emitting excessive smoke, excessive odor, or malodorous emissions;
- B. Contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- C. Is in a prohibited location or of a prohibited size;
- D. Is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
- E. Where its size, materials, containment, location, emissions, proximity to structures, trees, other combustible materials, conduct of participants, weather conditions or air, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property;

### **SECTION 6. Prohibited Acts.**

- A. No person, firm, or corporation shall permit, authorize, conduct, or participate in the burning of any open fire except as in compliance with this Ordinance.
- B. No person, firm, or corporation shall refuse to comply immediately and fully with any order of a Borough police officer or the Fire Chief or his designee to contain, control, correct or extinguish any fire or burning.

**SECTION 7. Penalties.**

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) and in default of payment of said fine, to imprisonment for a term not to exceed 90 days.

**SECTION 8. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinance or parts thereof are specifically repealed:

- Ordinance 63-6, dated September 4<sup>th</sup>, 1963;
- Ordinance 83-5, dated November 2<sup>nd</sup>, 1983, as it amended Ordinance 63-5,
- Ordinance 96-14, dated November 4<sup>th</sup>, 1996, as it amended Ordinance 83-5.

**SECTION 9 – Severability.**

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such holding shall not affect the other provisions or applications of this Part which can be given effect without the invalid provision or application and, to this end, the provisions of this Part are declared severable.

**SECTION 10 – Effective date.**

This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 3<sup>rd</sup> day of August, 2022.

**Borough Council of the Borough of Clarks Summit**

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**GERMAINE CAREY**  
**Council President**

**APPROVED:**

**Approved this 3<sup>rd</sup> day of August, 2022**

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**HARRY KELLY**  
**Mayor; Borough of Clarks Summit**