

**AN ORDINANCE OF THE BOROUGH OF MOSCOW, LACKAWANNA COUNTY, PENNSYLVANIA, TO HELP MAKE THE BOROUGH OF MOSCOW, ITS RESIDENTS AND VISITORS SAFER FROM THE THREAT OF FIRE INJURY AND/OR LOSS CAUSED BY OUTDOOR BURNING, INCLUDING THE USE OF OUTDOOR OPEN FLAME DEVICES; AND TO PROMOTE A HEALTHIER, SAFER OUTDOOR ATMOSPHERE FOR ALL, AND REPEALING ALL PRIOR ORDINANCES OR PARTS THEREOF WHICH ARE INCONSISTENT HERewith**

**DEFINITIONS:** As used in this text, the following terms shall have the meanings indicated:

**Approved:** Something that is acceptable to or accepted by the fire code official.

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.

**Fireplace Stove:** A free-standing chimney-connected solid-fuel-burning heater, designed to be operated with the fire chamber doors in either the open or closed position,

**Occupant:** Any individual living or sleeping in a building or having possession of a space within a building.

**Open Burning:** The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

**Operator:** Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

**Owner:** Any person, agent, operator firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**Person:** An individual, corporation, partnership or any other group acting as a unit.

**Premises:** A lot, plot or parcel of land, easement or public way, including any structures thereon.

**Public Way:** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**Recreational Fire:** An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**Rubbish:** Combustible and noncombustible waste materials except garbage; the term shall include the residue from the burning of wood coal, coke and other combustible materials, paper rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, and trimmings, tin cans, metals, mineral mater, glass, crockery and dust and other similar materials.

**Yard:** An open space on the same lot with a structure.

## **PROHIBITED OPEN BURNING:**

Open burning which produces smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited. It shall be unlawful for a person, partnership, company or corporation to burn any type of rubbish anywhere in the Borough. This section shall not prohibit the use of an outdoor fire for cooking or for recreation. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.

## **INCINERATORS AND CREMATORIES:**

No person shall burn any rubbish anywhere indoors in the Borough except in incinerators and crematories that are listed and labeled in accordance with UL 791 and shall be installed in accordance with the manufacturer's installation instructions.

## **EXCLUSIONS:**

1. This ordinance shall not be construed to prohibit wood fires in fireplaces, stoves, heaters, or furnaces as described below, and
2. This ordinance shall not prohibit or apply to outdoor wood fires for recreation, cooking or ceremonial purposes or outdoor gas or electric cooking grills or charcoal burners used for cooking purposes as long as adhered to as listed below:

**Masonry Fireplaces:** Masonry fireplaces shall be constructed in accordance with the International Building Code.

**Factory-Built Fireplaces:** Factory-built fireplaces shall be listed and labeled and shall be installed in accordance with the conditions of the listing. Factory-built fireplaces shall be tested in accordance with UL 127.

**Factory Built-Barbeque Appliances:** Factory-built appliances shall be of an approved type and shall be installed in accordance with the manufacturer's installation instructions, this ordinance, and the International Fuel Gas Code.

**Portable Outdoor Fireplace:** A portable, outdoor, solid-fuel burning fireplace that may be constructed of steel, concrete, or clay. A portable outdoor fireplace will be permitted only when in conformance with the following requirements or the manufacturer's instructions in any instance where those instructions are more restrictive.

1. Portable outdoor fireplaces shall be completely enclosed (solid material or heavy-duty screening or both) with or without a stack or chimney, but those burning combustible materials shall have a screen at the top to prevent large embers that may cause a fire from escaping into the atmosphere. All materials shall be in good repair and safe condition.
2. Portable outdoor fireplaces designed to burn combustible materials shall use an appropriate type of fuel such as non-pressure treated wood, charcoal or fireplace logs. Propane units shall use only propane. No waste material or any material that is likely to cause excessive smoke or noxious odors shall be used. The amount of fuel in use shall not exceed the safe capacity of the device.
3. Portable outdoor fireplaces shall be at least fifteen (15) feet from a structure, including decks and balconies. Their placement shall be stable and reasonably level so as to make tipping unlikely. They shall not be used on a deck, within any tent, or on or under a roof.
4. Portable outdoor fireplaces shall be constantly attended to until the fire is extinguished.

**Clearance From Ignition Sources:** Clearance between ignition sources, such as luminaries, heaters, flame-producing devices and combustible materials, shall be maintained in an approved manner.

**Hot Ashes and Spontaneous Ignition Sources:** Hot ashes, cinders, smoldering coals or greasy or oily materials subject to spontaneous ignition shall not be deposited in a non-combustible receptacle, within ten (10) feet of other combustibles.

**Recreational Fires:** Recreational fires shall not be conducted within twenty-five (25) feet of a structure or combustible material. Conditions which could cause a fire to spread within twenty-five (25) feet of a structure shall be eliminated prior to ignition. No recreational fires will be allowed after 11:00 p.m. on any given day.

**Attendance:** Recreational fires shall be constantly attended to until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum of 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 for a recreational fire. No fire shall be allowed to smolder. All fires must be totally extinguished by 11:00 p.m. on any given day.

**Age Requirement:** All recreational fires shall be attended to at all times by an individual eighteen (18) years or older until such time as the flame has subsided completely. Unattended burning shall be indirect violation of this ordinance and all persons or corporations causing and allowing such unattended burning shall be prosecuted under the guidelines of this ordinance.

**Open-Flame Cooking Devices:** Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction.

**Exceptions:** (1) Where buildings, balconies and decks are protected by an automatic sprinkler system, and (2) One and two-family dwellings.

**Liquefied-Petroleum Gas-Filled Cooking Devices:** LP-Gas burners having an LP-gas container with a water capacity greater than 2.5 pounds (nominal 1-pound LP-gas capacity) shall not be located on combustible balconies or within ten (10) feet of combustible construction.

**Exception:** (1) One and two family dwellings.

**Open-Flame Decorative Devices:** Open-flame decorative devices shall comply with all the following restrictions:

1. Class I and Class II liquids and LP gas shall not be used.
2. Liquid or solid fueled lighting devices containing more than eight (8) ounces of fuel must self-extinguish and not leak fuel at a rate of more than 0.25 teaspoon per minute if tipped over.
3. The device or holder shall be constructed to prevent the spillage of liquid fuel or wax at the rate of more than 0.25 teaspoon per minute when the device or holder is not in an upright position.
4. The device or holder shall be designed so that it will return to the upright position after being tilted to an angle of 45 degrees from vertical.

**Exceptions:** Devices that self-extinguish if tipped over and do not spill fuel or wax at the rate of more than 0.25 teaspoon per minute if tipped over.

5. The flame shall be enclosed except where openings on the side are not more than 0.375-inch diameter or where openings are on the top and the distance to the top is such that a piece of tissue paper placed on the top will not ignite in ten (10) seconds.

6. Chimneys shall be made of noncombustible materials and securely attached to the open-flame device.

**Exception:** A chimney is not required to be attached to any open-flame device that will self-extinguish if the device is tipped over.

7. Fuel canisters shall be safely sealed for storage.
8. Storage and handling of combustible liquids shall be in accordance with Section 809(C) of the 2008 Moscow Borough Zoning Ordinance.
9. Shades, where used, shall be made on noncombustible materials and securely attached to the open flame device holder or chimney.
10. Candelabras with flame-lighted candles shall be securely fastened in place to prevent overturning and shall be located away from occupants using the area and away from possible contact with drapes, curtains or other combustibles.

**ENFORCEMENT:**


1. This ordinance shall be enforced by the Moscow Borough Police Department.
2. The Moscow Borough Police Department shall prepare a citation or violation ticket, listing the offenses committed and the date, time and place thereof, which citation shall be issued to the violators hereof.
3. Where required by state or local law or regulations open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.
4. The Moscow Borough Police Department is hereby authorized to enforce the provisions of this ordinance and shall have the authority to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this ordinance and shall not have the effect of waiving requirements specifically provided for in this ordinance.

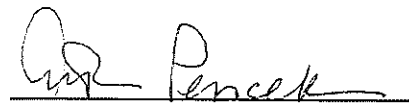
**EXTINGUISHMENT AUTHORITY:** The Moscow Borough Police Department or Moscow Volunteer Fire and Hose Company personnel are authorized to order the extinguishment by the occupant, another person responsible or the fire department of open burning that creates or adds to a hazardous situation.

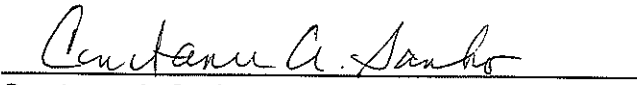
**VIOLATION AND PENALTIES:** Any person occupant, firm or corporation violating any provision of this ordinance shall be subject to a penalty in the amount of \$100.00 for a first offense; \$200.00 for a second offense; and \$300.00 for a third and subsequent offenses, plus the cost of extinguishment if it applies, plus all other costs approved by the courts. A separate offense may be deemed committed on each day during which a violation occurs or continues.

**REPEALING PREVIOUS ORDINANCES:** All prior ordinances or parts thereof which are inconsistent herewith are hereby repealed.

**ORDAINED AND ENACTED** this 2nd day of November, 2020.

  
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Rosemarie Warner, Mayor

  
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Arthur Pencek, Council President

  
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Constance A. Sanko, Secretary