ORDINANCE NO. 581-19-01

AN ORDINANCE OF THE BOROUGH OF MANOR, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 10, HEALTH AND SAFETY, PART 2, OF THE CODE OF ORDINANCES OF THE BOROUGH OF MANOR, PROVIDING FOR THE PURPOSES OF THE ORDINANCE, ESTABLISHING REGULATIONS CONCERNING OUTDOOR BURNING AND FIRES; SETTING FORTH DEFINITIONS; PROVIDING FOR CERTAIN PROHIBITIONS REGARDING BURNING; PROVIDING FOR CERTAIN EXEMPTIONS; VIOLATIONS; ENFORCEMENT; PENALTIES FOR VIOLATION THEREOF; AND REPEALS OF ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the burning of garbage, refuse, rubbish and debris, and the maintaining of open fires within the corporate limits of the Borough of Manor affects the health, safety and general welfare of the residents thereof; and

WHEREAS, the Council of the Borough of Manor has determined that air pollution and damages to persons and property from open burning is or may be detrimental to the health, comfort, living conditions, welfare, and safety of the residents of the Borough of Manor; and

WHEREAS, the Council of the Borough of Manor desires to establish rules and regulations for the prevention of certain burning and open fires that cause and create nuisances, damages and air pollution throughout the Borough of Manor; and

WHEREAS, the Council of the Borough of Manor desires to establish rules and regulations for certain burning and open fires for certain purposes subject to certain conditions; and

WHEREAS, The Borough of Manor is granted authority to regulate the same by the Borough Code of the Commonwealth of Pennsylvania.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Manor and it is hereby ordained and enacted that certain Sections and Provisions of Chapter 10, Part 2 of the Code of Ordinances of the Borough of Manor are hereby amended as follows:

SECTION 10-201. Definitions

As used in this Ordinance, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

- **AIR POLLUTION**—Contamination of air that will create or is likely to create a public nuisance, or which creates a nuisance for any person who is impacted by such pollution; or which will render the air harmful, detrimental or injurious to the health, safety or welfare, of the public.
- **BOROUGH COUNCIL** – The Council of the Borough of Manor.
- **BONFIRE** - An outdoor fire utilized for ceremonial purposes.
- **BUILDING MATERIALS** – Shall mean all materials incidental to construction, remodeling or demolition of all or parts of buildings, including, but not limited to, shingles, asbestos, Styrofoam, wire, insulation, treated wood, but not including untreated wood.
- **BURNING** - The act of consuming by fire; to flame, char, scorch, or blaze. As used in this ordinance, smoldering shall have the same meaning as burning and any smoldering shall be deemed a burning.
- **CLEARING AND GRUBBING WASTES** – Trees, shrubs, and other vegetation which are cleared from land during, after or prior to the process of construction or demolition. The term does not include building materials or demolition wastes.
- **DEMOLITION PROJECT** – Shall mean the destruction of a dwelling or building, or any part thereof, on site.
- **FIRE CODE OFFICIAL** – Shall refer to the official or employee of the Borough, appointed by Council.
- **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.
- **HAZARDOUS WASTE** – As defined in 25 Pa. Code §271.1.
- **HOUSEHOLD HAZARDOUS WASTE** – As defined in 25 Pa. Code §271.1.
- **INCINERATOR** – Any device specifically designed for the destruction by burning of refuse, sewage, sludge, or any other combustible material.

- **LAND DEVELOPMENT** – Shall mean the improvement of one or more lots, tracts or parcels of ground for any of the following:
    - A group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
    - The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas leaseholds, condominiums, building groups or other feature.
- **LEAF WASTE** - As defined in 25 Pa. Code §271.1.
- **MUNICIPAL WASTE** - As defined in 25 Pa. Code §271.1.
- **OPEN BURNING** – A fire, burning combustible materials, thereby creating air contaminants which are emitted directly into the outdoor atmosphere and not directed thereto through a flue 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. It also does not include recreational burning, outdoor fireplaces and grills and cooking devices. 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.
- **PERSON** –Any individual, partnership, association, public or private corporation for profit or not for profit, trust, estate, department, bureau, agency or other legal entity.
- **PORTABLE OUTDOOR FIREPLACE** - A portable, outdoor solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.
- **RECREATIONAL FIRE** - The burning of clean fire wood and/or manufactured burning products, where the fuel area is no greater than four (4) feet in diameter; and two (2) feet or less in height. Such fires may be for pleasure or religious, ceremonial, cooking or similar purposes.
- **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, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry, and other similar materials.
- **SALVAGE OPERATIONS** – Any business, trade or industry engaged in whole or in part salvaging or reclaiming any product or material, including but not limited to, metals, chemicals, shipping containers or drums.
- **TRADE WASTE** – All solid or liquid materials or rubbish resulting from construction building operations or the prosecution of any business, trade or industry including but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal.
- **YARD WASTE** – Waste from yard maintenance, specifically untreated wood or tree limbs. Leaves that have separated from the tree limb are specifically excluded from this definition.

SECTION 10-202. GENERAL REGULATIONS

1. All outdoor burning and fires are expressly prohibited except as may be authorized under the terms hereof.
2. A permit, issued by the Fire Code Official of the Borough of Manor, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, shall be required before any authorized outdoor burning as set forth in this Ordinance is permitted by the volunteer fire department of the Borough of Manor.
3. The Council of the Borough of Manor, shall from time to time by Resolution, adopt and authorize a permit form and schedule of fees to be imposed for the issuance of permits hereunder.
4. No person or persons shall set or maintain any outdoor burning of fires upon any sidewalk or the paved portion of any street, alley or public ground in the Borough of Manor.

5. No person or persons shall deliberately, knowingly, carelessly or negligently set fire to or cause the burning of any material in such manner to endanger the safety of any person or property.

6. The Fire Code Official of the Borough of Manor, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, shall be authorized to order extinguishment of any burning by any person responsible for the burning, that creates or adds to a hazardous or objectionable situation.

SECTION 10-203. OPEN BURNING

1. The following regulations shall apply to all outdoor burning or fires.
   - A. All outdoor burning or fires in the Borough shall be prohibited except as hereinafter set forth.
   - B. All permitted burning or fires shall be at least twenty-five (25') feet from any residential dwellings.
   - C. No person or persons shall set or maintain any permitted burning or fires closer than ten (10) feet to any property line.
   - D. No person or persons shall burn or cause to be burned any Hazardous Waste, Household Hazardous Waste, Leave Waste, Municipal Waste, and Refuse or any other materials that are otherwise prohibited by law.
   - E. Outdoor fireplaces, recreational burning and grills or cooking devices, used solely for food preparation purposes shall be exempt from the open burning provisions of this Ordinance; provided that such open-flame devices fueled or started by flammable or combustible gases or liquids shall be enclosed or installed in such a manner as to prevent the flame from contacting combustible material situate outside of the device.
   - F. Recreational burning fires for amusement purposes confined to purpose built devices meeting the definition set forth herein shall be permitted without the necessity of obtaining a permit, provided that such fire and devise:
     1. are not within ten (10) feet of a structure or property line.
     2. have a water extinguishing or equivalent source of extinguishment readily available and attended at all times.
     3. will, upon completion of the burn period, be completely extinguished.

4. comply with the provisions of Paragraph D, above.
5. be continuously attended and monitored until the fire is extinguished.

G. Recreational burning, outdoor fireplaces and grills or cooking devices shall not burn or smolder during the time period between 11:00 P.M. and 8:00 A.M. of the following day.

SECTION 10-204. LAND DEVELOPMENT

1. All outdoor burning or fires at areas of land development for the purpose of clearing the property and removal of vegetation and other debris (CLEARING AND GRUBBING WASTES as herein defined), shall not be permitted.
2. No person or persons at a land development site as defined herein, shall burn or cause to be burned any Hazardous Waste, Household Hazardous Waste, Leave Waste, Municipal Waste, and Refuse or any other materials that are otherwise prohibited by law.

SECTION 10-205. SALVAGE OPERATIONS AND DEMOLITION PROJECTS

1. All outdoor burning or fires at areas of salvage operations or demolition operations, as defined by this Ordinance shall be prohibited.
2. No person or persons at areas of salvage operation or demolition projects shall burn or cause to be burned any Hazardous Waste, Household Hazardous Waste, Leave Waste, Municipal Waste, and Refuse or any other materials that are otherwise prohibited by law.

SECTION 10-206. CONSTRUCTION SITES – RESIDENTIAL AND COMMERCIAL

1. No person shall set or maintain any outdoor burning or fires during the construction or remodeling of any structure within the Borough of Manor.

SECTION 10-207. EXEMPTIONS

1. Open fires may be set in the performance of an official duty of any public officer or employment duties of any employee of the Borough if the fire is necessary for:

a. The prevention of a fire hazard which cannot be abated by any other means; or

b. The protection of public health.

2. That upon obtaining a permit at no cost from the Fire Code Official, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, the volunteer fire department of the Borough of Manor may burn a structure, objects or material for the purpose of firefighting instruction and practice provided that said burning activity is a controlled burning activity and supervised by the volunteer fire department as otherwise permitted by Law. Prior to such activities the Department shall obtain and submit to the Fire Code Official, a copy of the permit from the Department of Environmental Protection, Bureau of Air Quality, for an Open Burning Exception for Fire Fighting Instruction; and, if necessary, an Asbestos Abatement and Demolition/Renovation approval.

SECTION 10-208. VIOLATIONS AND ENFORCEMENT

1. Any person who shall violate any provision of this Ordinance shall be, upon conviction, guilty of a summary offense. Any violation of this Ordinance shall be enforced by an action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. A separate offense and violation shall arise for each day or portion of a day in which a violation is found to exist or for each provision of this Ordinance which is found to have been violated.

2. The initial determination of whether any provision of this Ordinance has been violated, as well as service of notice of such violation, shall be made by the Fire Code Official, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council.

SECTION 10-209. PENALTIES, COSTS AND EXPENSES

1. Any person who shall violate any provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Two Hundred Fifty ($250.00) Dollars and not more than One Thousand ($1,000.00) Dollars, and/or imprisonment to the extent allowed by Law for the punishment of summary offenses.

2. Any person found guilty of violating any provision of this Ordinance shall be assessed any and all court costs in the prosecution of the same together with reasonable attorney fees incurred by the Borough in any and all enforcement proceedings.

SECTION 10-210. SEVERABILITY

1. 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.

SECTION 10-211. REPEALER

All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

ORDAINED AND ENACTED this 20th day of February, 2019.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

BOROUGH OF MANOR

By: _____

ATTEST:

_____
Secretary-Treasurer

Approved this 20th day of February, 2019.

BY: _____
Mayor

ATTEST:

_____
Secretary-Treasurer

CERTIFICATION

I, JOSEPH LAPIA, duly qualified Secretary-Treasurer of the Borough Council of the Borough of Manor, Westmoreland County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 581-19-01 is a true and correct copy of the original Ordinance No. 581-19-01 duly passed and adopted by a majority vote of the Borough Council of the Borough of Manor at a duly advertised and convened Regular Meeting held on the 20th day of February, 2019, and that the minutes of said meeting showing how each member voted have been duly recorded in the official minutes of said Borough Council and said Ordinance remains in effect as of this date.

IN WITNESS WHEREOF, I affix my hand and attach the seal of the Borough of Manor, this 20th day of February, 2019.

Certified to by:

JOSEPH LAPIA, Secretary-Treasurer