

**MOUNT WOLF BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2022-05

**THE MOUNT WOLF BOROUGH SMALL WIRELESS FACILITIES AND USE OF
PUBLIC RIGHT-OF-WAY ORDINANCE**

BE IT ORDAINED AND ENACTED by the Borough Council of Mount Wolf Borough (the “Borough Council”), York County, Pennsylvania, as is hereby ordained and enacted by the authority of the same as follows:

SECTION 1. Legislative Intent. The Borough Council enacts this Article to govern use of public street rights-of-way and municipal poles in accordance with and as limited by Act 50 2021, The Small Wireless Facilities Deployment Act. The Borough Council recognizes the limitations of the Act on its powers and desires to regulate the public street rights-of-way and municipal poles to the maximum extent allowed by such Act. The Borough Council further desires to limit, to the extent legally permissible, conflicts with other uses of the public street rights-of-way.

SECTION 2. Word Usage and Definitions.

- A. Word usage. In interpreting this Article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.
- B. Definitions. All words and phrases not otherwise defined herein shall have the meanings set forth in Section 2 of the Act.

ACT – The Small Wireless Facilities Deployment Act, the Act of June 30, 2021, P.L. 232, No. 50, 53 P.S. §11704.1 et seq., and as may be amended in the future.

ADA – The federal Americans with Disabilities Act, as amended, and all regulations adopted to implement such statute.

CODE ENFORCEMENT OFFICER – The person designated by the Borough Council to administer this Article.

FCC – The Federal Communications Commission or any agency successor thereto.

ONE CALL – The Pennsylvania One Call Act, the Act of December 10, 1974, P.L. 852, as amended, 73 P.S. §176 et seq., and all regulations adopted to implement such statute.

Extinguished: Taking action to smother or otherwise cause Burning to stop completely including stopping any flame or fire from smoldering, having embers or emitting smoke.

Person: Any natural person, firm, partnership, corporation, association or similar entity.

Structure: A Dwelling or other Building.

SECTION 2: Chapter 187, Section 2 of the Code shall be amended to remove Section 2 Violations and penalties in its entirety and to replace Section 2 with the following language:

REGULATIONS.

A. Burn Container Requirements: Outdoor Burning of permitted materials shall only take place within a Burn Container which meets the following requirements:

- (i) be no larger than 36” radius from middle point, and can be no larger than 24” in height;
- (ii) be a permanent structure;
- (iii) have a Burn Container Cover which shall be used at all times while burning in a Burn Container;
- (iv) be placed in crushed stone, limestone, cement, or cement dust bed with a radius of 48” and a minimum of 4” base which may not permit grass or other potentially flammable materials to be next to or underneath approved container;
- (v) be a minimum of 12 feet from any Building, Dwelling or Structure; and
- (vi) consist of masonry, metal ring or stone, and metal rings or devices cannot have holes, perforations or be in a dilapidated state. Burn barrels or other containers and devices not meeting the requirements in this Section and shall not considered an acceptable Burn Container.

B. Burnable Materials: Seasoned, dry firewood shall be the only material allowed to be Burned in a Burn Container. The Burning of all other items and Burning outdoor of an acceptable Burn Container shall be prohibited within the Borough.

- (i) Prohibited materials include, but are not limited to: trash; yard waste; animal waste; wet fire wood; painted lumber; cardboard; residential/industrial refuse; chemically treated wood; newspaper; human waste; chipboard; plywood; oils; gasoline; diesel fuel; industrial chemicals; grass; twigs; shingles; construction waste; rubber; tires; diapers; napkins; rags; clothes; automotive grease/oil; or any other item that may produce excessive smoke, obnoxious heavy smoke, be a public danger, or create environmental issues.

C. Permissible Times: Outdoor Burning shall only be permitted in a Burn Container from the hours of 10:00 am until 11:00 pm. All Burning must be Extinguished on or before 11:00 pm.

D. Permissible Conditions: Outdoor Burning shall only be permitted during fair weather conditions. Outdoor Burning shall be prohibited:

- (i) when the wind is in excess of 15 mph;
- (ii) anytime the Borough declares a Burn ban to be in effect due to public safety concerns; or
- (iii) during periods of drought, when authorities such as State Agencies request a ban on outdoor Burning.

E. Attendance of Burning: All outdoor Burning shall be attended and supervised by a Person of at least 18 years of age. Such supervision shall take place at all times during outdoor Burning, and until the Burning is Extinguished.

F. Required Safety Measures: There shall be a portable fire extinguisher, fire prevention device, or hose charged with water within immediate reach of, and no more than five (5) feet away from a Burn Container during outdoor Burning.

G. Change or Modification: Once certified by the Borough as set forth in Section 3, no change or modification shall be made to the Burn Container. In the event that a resident changes or modifies the Burn Container in violation of this Ordinance, the resident's Burn Container certification shall be revoked, and the resident shall be subject to the penalties set forth in Section 6 below.

SECTION 3: ADMINISTRATION.

A. A Person desiring to Burn outdoors within the Borough must first file a Burn Container certification at the Borough office, on such forms as provided by the Borough. Any Person filing a Burn Container certification shall pay a fee in such amount established by a Resolution approved by Borough Council.

B. The Borough Secretary, or other appointed Borough representative, may approve or reject the Burn Container certification request based on the submitted form(s), or they may otherwise refer the certification request to an Authorized Inspector, who shall be authorized to approve or reject the certification request.

C. The Borough Secretary shall keep a record of all Burn Container certification requests, which shall indicate if the request was approved or rejected. Any Burn Container certification request that is rejected shall state the reason(s) for which it was rejected. A copy of such approval or rejection shall be provided to the Person seeking the Burn Container certification.

SECTION 4: EXCEPTIONS. Outdoor Burning taking place with the use of special burning permits, the use of portable outdoor grills or smokers, fired by propane or charcoal, and designed for food preparation, are all excluded from the provisions of this Ordinance.

SECTION 5: ENFORCEMENT.

A. The Borough Council hereby authorizes any Authorized Inspector, as well as any other Borough representative specially designated by the Borough Council with the authority to enforce the provisions of this Ordinance.

B. These enforcement officers shall have authority to investigate complaints of violations and to issue orders to Persons that outdoor Burning shall be Extinguished, to impose conditions on maintenance of outdoor Burning to prevent nuisances or violations of this Ordinance, or to take other appropriate corrective actions. Any order issued by an enforcement officer shall take effect immediately upon notice to the property owner or Person in charge of the outdoor Burning.

C. These enforcement officers shall have authority to inspect Burn Containers and Burn Container Covers for compliance with this Ordinance.

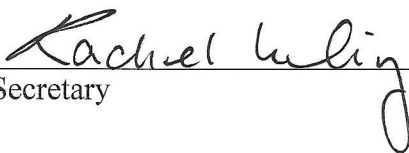
SECTION 6: VIOLATIONS AND PENALTIES. Any Person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000.00 per violation and the costs of prosecution for each and every offense and, in default of payments of such fine and costs, to imprisonment to the extent allowed by law for the punishment of a summary offense. A separate violation shall arise for each day the violation occurs.

SECTION 7: 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 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 8: REPEALER. All prior Ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

ENACTED AND ORDAINED this 14 day of JUNE, 2022.

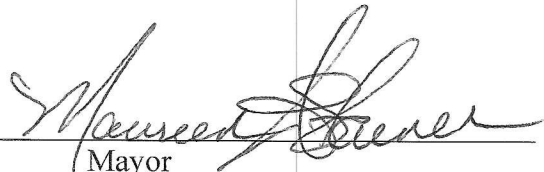
ATTEST:


Secretary

MOUNT WOLF BOROUGH COUNCIL

By: 
President

Approved this 14 day of JUNE, 2022.



Mayor