

**DELMONT BOROUGH
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2020 – 6

**AN ORDINANCE TO UPDATE AND RESTATE REGULATIONS
REGARDING OUTDOOR BURNING
WITHIN THE BOROUGH OF DELMONT**

WHEREAS, The Borough of Delmont has previously adopted and codified as Chapter 49 of the Code of the Borough of Delmont certain rules and regulations governing outdoor burning within the Borough of Delmont; and

WHEREAS, The imposition of reasonable rules and regulations governing outdoor burning within the Borough of Delmont will protect the health, safety and welfare of borough residents and invitees using the Borough facilities; and

WHEREAS, The Council of the Borough of Delmont now desires to revise, update and restate those rules and regulations.

NOW, THEREFORE, be it ordained and enacted as follows:

SECTION ONE: Following the adoption of this Ordinance, the provisions of Chapter 49 of the Code of the Borough of Delmont are hereby repealed in their entirety.

SECTION TWO: Following the adoption hereof, there shall be added to the Code of the Borough of Delmont the following provisions to be codified as Chapter 49, “Burning, Outdoor”:

**Chapter 49
BURNING, OUTDOOR**

§ 49-1. Purpose.

The purpose of this chapter is for rules and regulations apply to the use of outdoor fires or indoor fires within the Borough of Delmont. This chapter prescribes penalties for violations of this chapter. Other than as set forth herein, no person or persons shall burn or cause to be burned any municipal waste, trash, lumber, leaves, straw or any other combustible materials of any kind in or upon any streets or alleys or upon any public property within the limits the Borough of Delmont.

§ 49-2. **Small recreational fires on private property.**

A. Purpose. The Borough of Delmont desires to permit residents to have small recreational fires on their property in a safe manner for the purpose of cooking food, warmth, and ceremonial purposes.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

FIRE – Combustion or burning of materials causing light, flame, and heat.

MATERIALS – Dry and clean wood, small branches, twigs, kindling, charcoal, propane, natural gas, and any other clean burning fuel.

SMALL RECREATIONAL FIRE – A fire contained within a grill, outdoor barbeque, fireplace or similar device for the purpose of cooking food with natural gas, propane or any other clean burning fuel, wood or charcoal; or any other fire created for warming or ceremonial purposes within an enclosure that is constructed from masonry, brick, stone, metal or other noncombustible material, or other similar device that encloses and contains fire, such as a chiminea, fireplace or commercially manufactured fire pit designed specifically for the purpose of containing a fire.

C. Small recreational burning.

1. No persons shall burn any materials of any kind on private property except as authorized by this chapter or otherwise permitted by the federal, state or local law.
2. Small recreational fires are permitted on residential lots. The materials burned by the fire can only be of the type defined in this section. It is a violation of this section to burn any rubbish, garbage, cardboard, leaves, yard waste, household waste, municipal waste, construction debris, toxic or noxious materials, cloth, plastic, treated, painted, varnished or otherwise coated materials, or other materials that tend to cause excessive or malodorous emissions or excessive smoke. Small quantities of paper and cardboard may be burned as kindling.
3. Small recreational fires may only be conducted within fire enclosures no larger than four feet in diameter and 13 square feet.
4. The size of the pile of combustible material must be less than three feet in diameter and one foot in height.
5. All devices containing a small recreational fire shall be cleaned and maintained on a regular basis to prevent the buildup of residual combustible material, such as charcoal, food grease, drippings or scraps, or other debris.

6. At least one person 18 years of age must:
 - i. Attend (being outside, on the property, and in line of site of the fire) the small recreational fire at all times until the fire is extinguished;
 - ii. Ensure the fire is under control and poses no risk of spreading outside the enclosure; and
 - iii. Have a garden hose connected to a water source or other fire-extinguishing device readily available for use to extinguish the small recreational fire on an immediate basis.
7. Small recreational fires must be fully extinguished prior to being left unattended by a person 18 years of age.
8. The burning of paint cans, gasoline cans, vinyl products, plastics, chemicals, aerosols, tires, siding, construction or roofing materials, or any petroleum based products or any other toxic, combustible or hazardous materials is strictly prohibited. This prohibition also applies to the burning of organic materials and/or radiological materials.
9. Burning shall not occur during environmental conditions, including temperature inversions, fogs, low cloud ceilings, high wind conditions, dry weather conditions and/or events of dry weather warnings as issued by the County Emergency Management Agency, Pennsylvania Emergency Management Agency or the Pennsylvania Department of Environmental Protection or its agencies.
10. All burning of leaves and/or green unseasoned wood (less than one year of age) is prohibited.
11. No burning by business owners, operators, contractors, and/or owners of construction materials generated on site or off site.
12. No person undertaking any burning within the Borough shall permit said burning to pollute air, water or soils within the Borough.
13. Small recreational fires shall not create a nuisance. In the event of a nuisance arising from a small recreational fire, the extinguishment thereof may be directed by the Borough Fire Marshal/Fire Chief, borough police and/or Code Enforcement Officer. A nuisance is deemed to exist if the small recreational fire:
 - i. Generates flying embers that pose a hazard to a dwelling, structure, tree or other vegetation, combustible material, roadway or utility;
 - ii. Generates smoke, fumes or odors that affect other persons or property or unreasonably interferes with the use or enjoyment of neighboring properties;
 - iii. Contains prohibited materials;
 - iv. Causes an unreasonable risk of explosion;

- v. Creates a risk of harm to person's and/or the community's health;
- vi. Is not attended by a person physically who is over 18 years of age;
- vii. Is in a prohibited location; or
- viii. The burning violates other state, county, borough and/or federal burning laws.

§ 49-3. Specific burning.

- A. Burning is permitted within the Borough of Delmont for the following purposes when specifically authorized, maintained and controlled by designated Borough officials including, without limitation, Borough Fire Marshal/Fire Chief, borough police and/or Code Enforcement Officer:
 - 1. Fire or burning set to prevent or abate a fire hazard providing said fire is under the direction and supervision of the Borough Fire Chief.
 - 2. A fire required by the Fire Department for training or other Fire Department operations.
 - 3. A fire set for the prevention and control of disease or pests when approved by the Pennsylvania Department of Environmental Protection, Regional Air Quality Program Office.
 - 4. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of a farm, business or operation.
- B. To the extent that any rules or regulations of the Department of Environmental Protection of the Commonwealth of Pennsylvania have more stringent or restrictive regulations or codes or statutes, said Pennsylvania requirements shall supersede this chapter.

§ 49-4. Responsibility of property owners and/or developers or persons acting on their behalf.

- A. The owners, operators and/or persons physically operating the burn shall be responsible for costs involved in and including the monitoring, suppression activities, corrective actions, including, but not limited to, costs of litigation, oversight, monitoring, sampling, testing and all related costs of investigation related to a corrective action or suppression.
- B. The Borough of Delmont may collect the costs incurred for the foregoing in the same manner as civil penalties in addition to other civil penalties or criminal penalties as assessed.

§ 49-4. Violations and penalties.

- A. Any person who violates any provision of this chapter shall be guilty of a summary offense for each day of violation and, upon conviction, shall be required to pay a penalty for the use of Borough of Delmont in a sum not to exceed \$600, together with costs of prosecution, and in default of such payment shall undergo imprisonment for not more than 30 days.
- B. Each day of a continuing violation shall be a new violation to be interpreted as per this chapter.
- C. In addition to any criminal penalties or proceedings, the borough is permitted to take any and all other civil remedies at law or in equity.

SECTION THREE: The foregoing shall be codified as Chapter 49 of the Code of the Borough of Delmont.

SECTION FOUR: All ordinances or parts thereof conflicting with the provisions hereof are hereby repealed to the extent of such conflict.

SECTION FIVE: In the event any court of competent jurisdiction shall determine that any piece or portion of this ordinance is illegal, unconstitutional or unenforceable, the same shall not affect the remaining provisions hereof which shall remain in full force and effect.

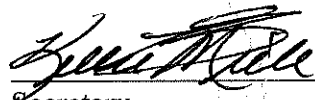
ORDAINED AND ENACTED into law by the Council of the Borough of Delmont
at a public meeting held this 8th day of September 2020.

COUNCIL OF THE BOROUGH OF DELMONT

By 


President

Attest:



Secretary
(Seal of the Borough)

Consenting:



Mayor