

ORDINANCE NO. 2012-01

ORDINANCE OF THE BOROUGH OF AUDUBON PARK, COUNTY OF CAMDEN, AND STATE OF NEW JERSEY, REPEALING ORDINANCE NO. 9, ENTITLED “AN ORDINANCE REGULATING THE BURNING OF TRASH AND OTHER OPEN FIRES IN THE BOROUGH OF AUDUBON PARK” and REPLACING IT WITH ORDINANCE 2012-01 ENTITLED “AN ORDINANCE GOVERNING OPEN BURNING AND OUTDOOR BURNING IN THE BOROUGH OF AUDUBON PARK”

WHEREAS, the Borough of Audubon Park adopted Ordinance No. 9, entitled “An Ordinance Regulating the Burning of Trash and Other Open Fires in the Borough of Audubon Park” in January 1948; and

WHEREAS, upon recommendation of the Fire Marshal, the aforementioned Ordinance has been determined by the Mayor and the Borough Council of the Borough of Audubon Park to be in need of revision and modification; and

WHEREAS, as a result of the above, the Mayor and Borough Council of the Borough of Audubon Park have deemed it in the best interest of the public health, safety and welfare to repeal and replace said Ordinance.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Audubon Park, County of Camden, State of New Jersey, as follows:

SECTION I. Ordinance No. 9, dated January 1948, and all subsequent amendments thereto are hereby repealed.

SECTION II. This Ordinance, known as Ordinance No. 2012-01 and entitled “An Ordinance Governing Open Burning and Outdoor Burning in the Borough of Audubon Park”, the intent of which is to replace Ordinance No.9, is hereby adopted as follows:

Purpose.

This Ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the residents and citizens of the Borough of Audubon Park by regulating the air pollution and fire hazards of open burning and outdoor burning.

Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated:

APPROVED CONTAINERS

Non-combustible containers approved by the Fire Marshal for use in burning open fires or outdoor fires, which include but may not be limited to chimeneas, outdoor fireplaces, fire pits, patio warmers or other portable wood-burning devices used for outdoor recreation and/or heating and which meet the minimum standards set forth in this Ordinance.

CAMPFIRE

A small outdoor fire intended for recreation or cooking, but not including a fire intended for disposal of waste wood or refuse.

CLEAN WOOD

Natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

CONSTRUCTION AND DEMOLITION WASTE

Building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

FIRE MARSHAL

The Fire Marshal of the Borough of Audubon Park or such other person designated by the Fire Marshal.

GARDEN WASTE

Vegetative waste derived from gardening and/or landscaping activities, including but not limited to weeds, vines, dead garden plants and other similar vegetative waste.

OPEN BURNING

Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

OUTDOOR BURNING

Open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.

OUTDOOR WOOD-FIRED BOILER

A wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans.

REFUSE

Any waste material except yard waste and garden waste.

YARD WASTE

Vegetative and similar waste generated by general property maintenance, including but not limited to leaves, brush, vines, evergreen needles, grass clippings and branches smaller than 3 inches in diameter.

General Prohibitions.

A. Open Burning and Outdoor Burning Prohibited Except Where Expressly Permitted.

Except as otherwise set forth below, open burning and outdoor burning is strictly prohibited in the Borough of Audubon Park unless such burning is specifically permitted in this Ordinance.

B. Burning of Certain Materials Strictly Prohibited.

Open burning and outdoor burning of the following materials is strictly prohibited:

- (i) refuse;
- (ii) yard waste, including but not limited to leaves, brush, vines, evergreen needles, grass clippings and branches smaller than 3 inches in diameter;
- (iii) garden waste, including but not limited to weeds, vines, dead garden plants and other vegetative waste;
- (iv) construction and demolition waste;
- (v) treated and/or pressure-treated lumber;
- (vi) paper products;
- (vii) aluminum, glass or plastic cans, bottles or containers; and
- (viii) any material not mentioned above other than Clean Wood.

C. Use of Outdoor Wood-Fired Boiler Prohibited.

No individual shall install, use or maintain an outdoor wood-fired boiler in the Borough of Audubon Park.

D. Use of Flammable Liquids Strictly Prohibited.

The use of any type of flammable liquids to ignite, accelerate or maintain an open fire or outdoor fire is strictly prohibited.

General Standards Applicable to Open Burning and Outdoor Burning.

A. Where permitted; when permit required.

(i) Subject to all terms and conditions of this Ordinance, open burning and outdoor burning shall be permitted without a permit at all single-family dwellings, duplexes and townhouses; and

(ii) Any person interested in open burning or outdoor burning at any location other than that set forth in (A)(i) above, including but not limited to a campfire, shall be required to apply to the Fire Marshal, or his designee, to obtain a permit prior to commencing or maintaining any open fire or outdoor fire. The open burning/outdoor burning permit fee shall be \$10.00.

B. Conditions of Open Burning and Outdoor Burning.

All permitted open fires or outdoor fires shall be maintained under the following conditions:

- (i) all fires shall be contained in an Approved Container only;
- (ii) all open fires or outdoor fires shall be limited to a maximum of 3 feet in diameter and 2 feet in height;
- (iii) all openings in the Approved Container shall be covered with wire mesh or other non-combustible screening material that will prevent the passage of sparks and embers;
- (iv) only Clean Wood may be used in any open fire or outdoor fire;
- (v) all open fires or outdoor fires shall be kept a minimum of 15 feet from any structure or combustible exterior wall;
- (vi) open fires and outdoor fires must be attended and maintained by an individual of the age of 18 years or older until the fire is completely extinguished;
- (vii) no open fire or outdoor fire shall be attended or maintained by an individual under the age of 18 years; provided, however, that nothing herein shall prohibit individuals under the age of 18 from enjoying an open fire or outdoor fire for recreational purposes so long as any such minor is accompanied by at least one adult over the age of 18;
- (viii) no open fire or outdoor fire shall be conducted on any porch, deck, balcony or other portion of a building; within any room or space within a building; or under any building overhang; provided, however, that an open fire or outdoor fire may be conducted on a concrete or stone patio if and only if all other provisions of this Ordinance are met;
- (ix) all open fires and outdoor fires shall be completely extinguished by 11:00

- P.M.; and
- (x) no person shall cause an open fire or outdoor fire to be used or maintained in such a manner as to cause a nuisance to neighbors.

C. Compliance Required with International Fire Code.

In addition to complying with the terms and conditions set forth in this Ordinance, all open burning and outdoor burning shall comply with the provisions of the International Fire Code, New Jersey Edition 2006, Section 307 (Open Burning and Recreational Fire), as same may be amended from time to time.

Liability.

A person utilizing or maintaining an open fire or outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Right of entry and inspection.

The Fire Marshal, Fire Department Officer, police officer or any authorized officer, agent, employee or representative of the Borough of Audubon Park who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article. Said persons may order any open fire or outdoor fire which creates a nuisance or is deemed to be a hazard to be extinguished.

Enforcement; violations and penalties.

A. Enforcement.

The Fire Marshal or his/her designee, the Police Department and any other authorized official of the Borough of Audubon Park are authorized to enforce the provisions of this Ordinance.

B. Civil fines; imprisonment; injunctions.

Any person, firm, association, partnership, corporation, or governmental entity who or which violates any of the provisions of this Ordinance or fails to comply with a duly authorized order issued pursuant to this Ordinance shall be deemed to be responsible for a municipal civil infraction which shall be punishable by civil fine not to exceed \$1,000 or imprisonment in the County Jail for a period not to exceed ninety (90) days, or both. Each day that a violation of this Ordinance exists or continues shall constitute a

separate violation of this Ordinance. In addition, the Borough of Audubon Park shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance.

C. Expenses.

Any person, firm, association, partnership, corporation, or governmental entity who or which violates any of the provisions of this Ordinance or fails to comply with a duly authorized order issued pursuant to this Ordinance also shall be responsible to pay costs which may include all expenses, direct and indirect, the Borough of Audubon Park has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$500.00 nor more than \$2,500.00 be ordered.

Applicability.

Except as provided below, this Ordinance applies to all outdoor burning and open burning within the Borough of Audubon Park.

A. Cooking Appliances; Outdoor Grilling.

This Ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

B. Heating of Residential Properties.

This Ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human habitation.

C. Heating for Commercial Activities.

This Ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating construction or maintenance activities.

SECTION III. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV. If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION V. This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

INTRODUCED: FEBRUARY 6, 2012

ADOPTED: MARCH 5, 2012