

Borough of Midway  
Ordinance No. 170  
**AMENDED August 6, 2012**

AN ORDINANCE OF THE BOROUGH OF MIDWAY, WASHINGTON COUNTY, PENNSYLVANIA, RESTRICTING OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS AND REGULATING OUTDOOR FIRES WITHIN THE BOROUGH OF MIDWAY, AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough of Midway hereby ORDAINS AND ENACTS the following Ordinance:

**Section 1. Definitions** - As used in this Ordinance, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

- (a) BOROUGH - Borough of Midway, Washington County, PA.
- (b) OPEN FIRE - a fire outside of any building in which any material is burned in the open or in a receptacle other than in a grill used for the purposes of outside barbecues.
- (c) OUTSIDE BARBECUES - any fire maintained in a commercially constructed grill or masonry constructed grill for the purposes of heating, cooking and preparing food for the purpose of consumption.
- (d) PERSON - any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

**Section 2. Regulations** - Within the Borough limits, no person shall:

- (a) ignite, feed, cause, allow, permit or maintain on any property any open fire outside of any building for any purpose other than that specifically allowed for herein.

**Section 3. Exceptions** - The activities prohibited in this Ordinance are subject to the following exceptions:

- (a) open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
  - (1) the prevention of a fire hazard which cannot be abated by other means; or
  - (ii) the protection of public health.

- (b) open fires may be set with written approval of the duly designated individual by the Borough of Midway; provided:
  - (1) leaves and branches only are burned,
  - (ii) there is no practical available alternative method for disposal of the material to be burned,
  - (iii) no hazardous or other objectionable condition will be created by such burning,
  - (iv) no such burning is allowed on any street or sidewalk within the Borough of Midway.
- (c) any open fires shall be permitted at any time when the same is conducted during an official act or exercise, pre-approved by Midway Borough Council, of a volunteer Fire Department or a paid Fire Department recognized by the Commonwealth of Pennsylvania.
- (d) it shall be lawful at any time to burn charcoal or wood fires kindled for the purpose of outside barbecues, providing the fire is confined to the barbecue structure as defined in the Ordinance, and is used SOLELY for the heating, cooking and preparing of food.

**Section 4. Authority to Extinguish** - Authority is hereby granted to the Midway Volunteer Fire Department to extinguish any fire within the Borough of Midway when the Fire Chief of said Department deems that conditions warrant such action.

**Section 5. ALL OTHER BURNING IS STRICTLY PROHIBITED.**

**Section 6. Appeals** - Upon the denial of written approval as described in Section 3(b), an appeal may be taken to the Borough Council at a regularly scheduled meeting and such denial may be reversed upon a majority vote of the Borough Council. Borough Council reserves the right to limit this approval to a specific time, place and/or manner, and issue restrictions that may be placed on said open fire.

**Section 7. Enforcement** - The Borough Council of the Borough of Midway may designate an Enforcement Officer, in addition to the Borough Police Officers, who shall have the power to enforce the provisions of the Ordinance.

**Section 8. penalties** - Any person who shall violate any provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of TWENTY-FIVE and no/100ths (\$25.00) DOLLARS, and in default of payment, to imprisonment for a term not to exceed two (2) days. Each day the violation exists shall constitute a separate offense.

**Section 9. Repealer** - All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**Section 10. 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 the Ordinance. It is hereby declared as the intent of the Borough of Midway that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 11. Effective Date** - This Ordinance shall become effective thirty (30) days after its enactment, and the same is hereby **ORDAINED AND ENACTED** at the regular meeting of Midway Borough Council on this 6th day of November, 1996.

**AMENDED August 6, 2012: Section 12. Application Required** – *No burning shall take place within the borough unless and until a burning Application has been filed with the Secretary of Midway Borough and approved by the Midway Borough Fire Department, its successors and assigns. Said Burning Application must be filed with the Borough Secretary at least three (3) days prior to the date of intended burning. Upon receipt of said Burning Application, the Borough Secretary shall forward such Application to the Midway Borough Fire Department for approval. The Midway Borough Fire Department shall then schedule a time to meet with Applicant to review Application. Upon approval of any such Burning Application, the Midway Borough Fire Department shall notify the Applicant of such approval or denial. No burning shall take place unless and until said Applicant has received notification of approval of any such Application. Any such approval or denial shall take place within three business days of the Application date.*

**ATTEST:**  
Darla Habbestad  
Secretary

**BOROUGH OF MIDWAY**  
By: George Protch  
Council President

**AND NOW, this 6th day of November, 1996,** the foregoing Ordinance is hereby examined and approved.

Karen Bartosh  
Mayor

**ATTEST:**

**BOROUGH OF MIDWAY**

**Darla Protch**  
Secretary

**By: Ed Salvini**  
Council President

**AMENDED and APPROVED by me this 10<sup>th</sup> day of September, 2012.**

**By: Karen Bartosh**  
Mayor