

ORDINANCE NO. 156 - 2019

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF MODENA ADDING THE FOLLOWING SECTIONS TO CHAPTER 10-106(c) and RENUMBERING OF CHAPTER 20-107 and CHAPTER 20-108 UNDER THE CODE OF ORDINANCES, PROVIDING AMENDMENTS TO THE CODE WITH RESPECT TO THE BURNING OF TRASH AND RUBBISH, LEAVES, AND BONFIRES IN THE OPEN

Adopted by the Borough Council of Modena, on December 9, 20 19 by Ordinance No. 156-20 19:

THE COUNCIL OF THE BOROUGH OF MODENA ORDAINS AS FOLLOWS:

CHAPTER 10 SECTION 106(C) shall be replaced in its entirety by the following:

C. BURNING OF TRASH, RUBBISH, LEAVES, BONFIRES, ETC.

(i) **Burning of trash, rubbish, or any other material considered as domestic refuse, including leaves, small branches, and other dead vegetation**, resulting from the normal occupancy of a dwelling, shall be strictly prohibited, except in a contained, approved incinerator which shall consist of a container, such as a metal fifty-five-gallon drum with screen cover designed to prevent flying debris, or a permanent block or brick burner specifically designed for the incineration of domestic refuse. The Borough Fire Marshall or an authorized representative of the Modena Fire Company shall make the final determination with regard to approval of incinerators.

- (A) Burning is restricted to NO MORE than ONE (1) days;
- (B) Burning is limited to between the hours of 10am and 6pm;
- (C) The fire shall be contained in an approved container located no less than fifty (50) feet from any structure; and
- (D) Such fire shall be constantly attended by a person over 18 years of age until extinguishment.
- (E) NO plastics or wooden pallets, or pressure treated lumber, may be burned.

(ii) **Bonfires.**

- (A) Definition: A bonfire shall include any recreational campfire or cooking fire; ceremonial fire requested by an organization for a specific purpose; or other fire set for a specific purpose.
- (B) No bonfire, recreational, ceremonial, or other fire shall be kindled or permitted to burn whenever drought or extreme weather conditions exist, or when a ban on outdoor burning has been placed into effect by the Commonwealth of Pennsylvania, Chester County Emergency Services or Fire Marshall, or the Council of Modena

Borough. Notice of such restrictions shall be given by notice in a newspaper of general circulation, by posting of a notice at the Borough Office, and any other such notice as the Borough may deem necessary.

No one shall kindle or maintain any bonfire, recreational, ceremonial, or other fire, or authorize any such fire to be kindled to maintained unless:

- (1) A burning permit is obtained from the Borough Secretary during normal working hours. The burn permit fee is \$60. The burn permit is limited to a period of 48 hours.
- (2) The Borough Fire Marshal or an authorized representative of the Modena Fire Company shall be notified when deemed necessary to approve said issuance of a burn permit by the Borough Secretary.
- (3) No fire shall be permitted to be kindled or maintained within 50 feet of any structure, or within 15 feet of any combustible material. Provisions shall be made to prevent the fire from spreading to within 50 feet of any structure or 15 feet of any combustible material.
- (4) Bonfires, recreational, ceremonial, or outdoor fires shall be limited to ONE (1) consecutive days, and shall be restricted to the hours of 10am to 10pm only. Fires shall not be permitted to burn or smolder after dark.
- (5) In the event it is necessary to have an fire at times other than specified tinder the terms of this chapter, special permission shall be secured from the Borough Fire Marshal, and the Modena Fire Company shall also be notified.
- (6) No fire shall be maintained unless contained and constantly attended by at least one person over 18 years of age, until extinguishment.
- (7) Any fire permitted to burn in an unsafe manner, during adverse weather conditions, or unsupervised, or if determined unsafe by the Borough Fire Marshal, or an official of the Modena Fire Company, shall be immediately extinguished upon demand by such official or their agents.
- (8) No one shall kindle or maintain any bonfire, recreational, ceremonial, or fire which conflicts with any provisions of this chapter, or the terms set forth on the burning permit.
- (9) The above does not include recreational fires, which are contained

either in a fire pit, or fireproof container for the purpose of cooking food or the use of wood or other burnable materials (not trash or vegetation), commonly known as a "campfire".

(i) **Exceptions.** Nothing in this chapter shall prohibit:

(a) any fire, the sole purpose of which is to cook or prepare food, provided said fire is confined within a fireproof container designed for same, or in an appropriate sized firepit.

(b) any fire maintained solely for the purpose of firefighter training for the Modena Fire Company, its successors and assigns, provided, however, that said fire shall not omit any noxious fumes or flying debris which may endanger property or vegetation.

(10) **Indoor Burning.** The control and enforcement of indoor burns is a matter of public safety governed exclusively by the State, County, and Local Fire Marshalls, and is not within the purview of this Ordinance. If there is a question concerning use or enforcement of indoor burns, those should be addressed to the County or Local Fire Marshall for interpretation and enforcement under the State and Local building codes and other emergency management measures.

(iii) **Complaints.** No one shall maintain any fire which interferes with the reasonable enjoyment of life and property of his neighbors. Said person shall immediately extinguish said fire upon demand of the Borough Fire Marshal, an official of the Modena Fire Company, or their agents.

(iv) **Exceptions.** Nothing in this chapter shall prohibit:

(A) Any fire, the sole purpose of which is to cook or prepare food, provided said fire is confined within a fireproof container designed for same.

(B) Any fire maintained solely for the purpose of firefighter training of the Modena Fire Company, its successors and assigns; provided, however, that said fire shall not emit any noxious fumes or flying debris.

(v) **Violations and Penalties.** Any person who shall violate any provision of this chapter shall, upon conviction thereof before a Magisterial District Judge, be subject to the summary criminal procedures and a penalty or fine of not less than \$100 nor more than \$1,000, together with costs of prosecution for each violation, and may upon default of payment of fine and costs, be sentenced to suffer imprisonment in accordance with the law.

CHAPTER 20-107 IS NOW 20-108 NEW PROVISION in SOLID WASTE CHAPTER:

Disposal of refuse.

A. It shall be unlawful to dump, burn, bury, destroy, process or otherwise dispose of any refuse within the boundaries of the Borough of Modena except in accordance with this article and the Pennsylvania Department of Environmental Protection and consistent and in compliance with the Chester County Solid Waste Management Plan, as from time to time amended.

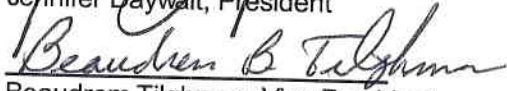
B. Leaves, trees and other vegetation wastes may not be burned in the Borough of Modena except with specific written prior approval of the Fire Marshal of Modena Borough in accordance with Chapter 10 Section 106(C) hereof.

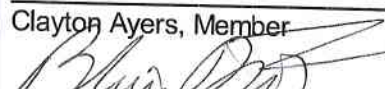
BE IT FURTHER ORDAINED by the Borough Council of the Borough of Modena that this ordinance shall take effect FIVE (5) days hereafter, and remain in effect until changed thereafter.

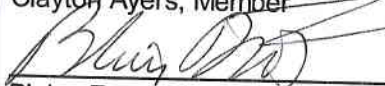
ENACTED and ORDAINED this 9th day of December 2019.

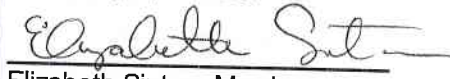
APPROVED


Jennifer Daywalt, President

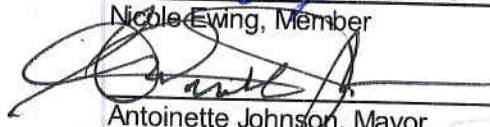

Beaudrem Tilghman, Vice President


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Blaise Frost, Member


Elizabeth Sinton, Member


Nicole Ewing, Member


Antoinette Johnson, Mayor

ATTEST



Victoria Cloud
Secretary