

**BOROUGH OF CALIFORNIA
COUNTY OF WASHINGTON
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 566

AN ORDINANCE OF THE BOROUGH OF CALIFORNIA, WASHINGTON COUNTY, COMMONWEALTH OF PENNSYLVANIA, REGULATING OPEN BURNING WITHIN THE BOROUGH; CONTAINING A DEFINITIONS SECTION; PERMITTING OPEN BURNING DURING CERTAIN TIMES; PROHIBITING OPEN BURNING IN CERTAIN SITUATIONS; REQUIRING THAT FIRES BE SUPERVISED; ALLOWING FOR BURNING THAT IS INCIDENTAL TO LAND DEVELOPMENT; REQUIRING THE PROCUREMENT OF A BURNING PERMIT, AND THE PAYMENT OF A CERTAIN FEE FOR SAID PERMIT, DEPENDING ON THE CIRCUMSTANCES; PROVIDING FOR ENFORCEMENT OF THE INSTANT ORDINANCE; CONTAINING A VIOLATIONS AND PENALTIES SECTION IN THE EVENT OF NONCOMPLIANCE; REPEALING INCONSISTENT, PRIOR ORDINANCES AND/OR PORTIONS OF INCONSISTENT, PRIOR ORDINANCES, INCLUDING, SPECIFICALLY, ORDINANCE NO. 306; INCLUDING A SAVINGS CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1. SHORT TITLE.

This Ordinance shall be referred to as the California Borough Open Burning Ordinance of 2019.

SECTION 2. DEFINITIONS.

- A - The term "Ashes" shall mean the residue resulting from the burning of wood, coal, coke or other combustible material.
- B - The term "Borough Council" shall mean the Borough Council of California Borough.
- C - The term "Disposal" shall include the storage, collection, disposal or handling of refuse.
- D - The term "Furnace" shall mean any enclosed device specifically designed for burning any material to produce heat.
- E - The term "Garbage" shall mean all animal and vegetable waste resulting from the handling, preparation, cooking or consumption of foods.
- F - The term "Incinerator" shall mean any device specifically designed for the destruction by burning of refuse, sewage sludge, or any other combustible material.
- G - The term "Leaf Waste" shall mean any leaves, garden residues, shrubbery and tree trimmings and similar material but not grass clippings.

H – The term “Leaves” shall mean leaves that have fallen from trees that are normally gathered by raking, vacuum/blowers or other methods. Leaves shall not include branches; brush twigs and leaves still on branches.

I – The term “open fire” shall mean any fire in which any material is burned in other than a furnace or incinerator.

J – The term “Recreational fire” shall mean any fire used for or in connection with camping, cooking, picnicking or recreational activities.

K – The term “Refuse” shall mean all solid wastes including garbage, rubbish and trade wastes.

L – The term “Rubbish” shall include all solids and liquids not considered to be highly flammable, or explosive including but not limited to rags, clothing, leather, rubber, carpets, ashes, furniture, tin cans, glass, crockery, masonry, and other noncombustible or toxic materials.

M – The term “Trade Waste” shall mean all noncombustible or hazardous materials produced as a result of construction activities.

N – The term “Tree Trimmings” shall mean the compostable materials that are removed from trees in normal care and maintenance.

O – The term “Residential Land Development” shall mean the development of a parcel for the development of a single-family dwelling.

P – The term “Commercial Land Development” shall mean the development of land for any use other than the development of a single-family dwelling.

SECTION 3. PERMITTED TIMES.

A – Subject to the conditions hereinafter imposed, it shall be lawful for any person or persons in the Borough of California to dispose of leaf waste, leaves, tree trimmings, untreated wood or paper products by burning between the hours of 3:00 PM and 6:00 PM on weekdays and between the hours of 9:00 AM and 6:00 PM on Saturdays. Only lawful wastes, as listed above, produced on the property shall be burned.

B – All burning shall occur in clearly defined pits, metal barrels or in an area that is cleared as to prevent the possibility of the fire spreading.

SECTION 4. PROHIBITED BURNING.

A – Burning shall be prohibited on air quality action days or under a moratorium of burning directed by the Pennsylvania D.E.P.

B – No person or persons shall ignite or feed an open fire for the destruction of refuse, rubbish, garbage or trade wastes.

C – No open fires, including recreational fires, shall be maintained within 25 feet from any structure. This provision shall not apply to manufactured burning pits, which shall be maintained in accordance the manufacturer's specifications.

D – No such burning is allowed on any borough street, right of way or sidewalk within California Borough.

E – During periods when winds are strong or blowing in such directions to carry sparks to nearby houses or buildings, it shall be unlawful for any person or persons to burn in accordance with the provisions of this Ordinance.

F – It shall be unlawful for any person or persons to burn during periods of prolonged drought conditions.

G – Burning of open ground for land clearing other than burning incidental to the development of land outlined in Section 6 is prohibited.

H – Burning of structures is prohibited unless approved by Borough Council and the California Volunteer Fire Department.

SECTION 5. SUPERVISION OF FIRES.

A – All fires must always be attended to during the burning time.

B – All fires must be fully extinguished at the end of the permitted burning time and must not be allowed to smolder after the burning time.

SECTION 6. LAND DEVELOPMENT.

Burning of trees and brush incidental to the development of land or the construction of a home or commercial building is permitted. A permit is required for burning of this type and will be issued by the California Borough code enforcement officer, police officer, or any other duly appointed official by Borough Council.

The land development burning shall adhere to the following guidelines:

1 - Residential Land Development – Single Family Home

All burning of trees and brush for the development of a single-family dwelling shall adhere to the provisions of Sections 2 through 5 of this Ordinance.

2 – Commercial Land Development

A – All burning under this Section shall be done in a pit in the ground which has the area and depth to adequately contain the burn pile.

B – The burn pit shall be located on the site to provide a maximum distance from any occupied premises and no closer than three hundred feet (300') to any occupied dwelling. Said burn pit shall be approved in the field by the code enforcement officer, prior to the commencement of any burning.

C – The pit shall be extinguished by 4:30 PM each burning day, so that excess smoke does not linger throughout the night.

D – Fires shall be started only with clean fuels, such as kerosene. Grubbing and clearing wastes to be burned in the pit shall be limited to brush and trees (no building material). Dirt laden stumps and roots must be cleared of dirt prior to discharge into the pit. No other materials shall be burned at any time.

E – Materials shall be added to the pit in regular increments so that the pit does not become overcrowded. The burning level shall not extend above the height of the pit.

F – Should the Borough receive and verify a citizen complaint of excessive smoke, the permit may be revoked, and penalties may be assessed.

G – The burn pit must always be attended to by a responsible person during its operation.

H – Should adverse weather conditions result in excess smoke build-up or impact adjacent occupied properties, the operator shall immediately suspend operations for the duration of the conditions.

I – No more than one burn pit shall be operated at any one time on a single site, unless approved by the code enforcement officer.

SECTION 7. PERMIT FEES.

A – A burning permit must be obtained from the California Borough code enforcement officer for all burning undertaken pursuant to Section 6-2. A separate burning permit shall be required for each burning site and shall be valid for a fourteen-day period. If a site to be cleared is greater than 10 acres, the code enforcement officer may issue a burning permit for a period greater than 14 days.

Upon submittal of a burning permit application, the code enforcement officer shall have 7 days to award or deny the permit. Prior to issuance of the permit, the applicant and the code enforcement officer shall inspect the proposed burning site for compliance with the Ordinance and submitted application. It shall be the sole discretion of the code enforcement officer whether

to issue a permit. The code enforcement officer shall have the authority to place reasonable restrictions on the burning permit. The permit shall be posted to be visible from the roadway or in a manner prescribed by the code enforcement officer. The applicant must submit a burning permit application, on forms prescribed by the borough, along with the appropriate fees, established under Section 7 – B, prior to the issuance of any burning permit. The fees can be changed, by resolution of Borough Council.

B – The following schedule of fees shall be charged for the issuance of a burning permit based upon the area of land under development:

<u>AREA</u>	<u>FEE</u>
Less than 1 acre	\$100
Greater than 1 acre and less than 10 acres	\$100, plus \$35 an acre for each acre greater than one acre
For 10 acres or greater	\$450, plus \$20 an acre for each acre greater than ten acres, not to exceed \$1,000

C – For purposes of computing the permit fee, the applicable site size shall be the area stipulated on the approved subdivision, site plan or zoning permit.

SECTION 8. ENFORCEMENT.

The California Borough code enforcement officer, California Borough police department or any other duly authorized official appointed by Borough Council, has the authority to enforce the provisions of this Ordinance.

SECTION 9. VIOLATIONS AND PENALTIES.

A – Any person, partnership, firm or corporation, who is convicted of violating Sections 3 through 5 of this Ordinance shall be guilty of a summary offense and sentenced to pay a fine of not less than \$100 and not more than \$1,000 plus the cost of prosecution; and in default of payment of such fines and costs shall undergo imprisonment in the county jail for not more than 30 days.

B – Any person, partnership, firm or corporation covered under Section 6 through 7 of this Ordinance, who is for the first time convicted of violating any provisions of this Ordinance, shall be guilty of a summary offense and sentenced to a fine of not less than \$300 and not more than \$1,000 and the cost of prosecution; and in default of payment of such fines and costs, shall undergo imprisonment in the county jail for not more than 30 days. For each subsequent conviction, a minimum fine shall not be less than \$600 and not more than \$1,000 and the cost of prosecution; and in default of payment and fines and costs, to undergo imprisonment in the county jail for not more than 30 days.

SECTION 10. REPEAL OF PRIOR ORDINANCES.

Any and all prior Ordinances and/or any and all portions of prior Ordinances, including, specifically, Ordinance No. 306, which conflict with this Ordinance, are hereby repealed to the extent of such conflict. The remaining Ordinances and/or portions of prior Ordinances, not modified herein, shall remain the same.

SECTION 11. SAVINGS CLAUSE.

Should any section, provision or other part of this Ordinance be found to be illegal, unenforceable or void, such shall not affect the remainder hereof, which shall remain fully binding, valid and enforceable, and such section, provision or other part shall be modified to the extent necessary to so conform to the law.

The Borough Council of the Borough of California hereby declares its intention that should any section, provision or other part of this Ordinance be found to be illegal, unenforceable or void, it would have made the foregoing Ordinance without such part or with such part so modified so as to conform to the law.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall become effective immediately.

DULY presented and adopted at a meeting of the Borough Council of the Borough of California, Washington County, Commonwealth of Pennsylvania, this 12th day of September, 2019.

ATTEST:

BOROUGH OF CALIFORNIA

Shirley Evans
Borough Secretary

By: *Patricia J. Albano*
President of Council

EXAMINED AND APPROVED by me this 12th day of September, 2019.

BOROUGH OF CALIFORNIA

By: *(Signature)*
Mayor