

**FELTON BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2024 -01

**AN ORDINANCE OF FELTON BOROUGH, YORK COUNTY, PENNSYLVANIA
AMENDING AND RESTATING ORDINANCE NO. 2004-01, REGULATING OPEN
BURNING**

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of Felton Borough, York County, Pennsylvania, under authority of law, as follows:

SECTION 1: DEFINITIONS. As used in the Ordinance, the following terms shall have the meanings indicated:

- A. Open Burning – Any fire not confined or contained in a receptacle of acceptable construction (e.g. metal, masonry, or other nonflammable material), the size of which receptacle shall be less than or equal to a maximum of four feet by four feet (or sixteen square feet) and equipped with a top so constructed as to prevent fly ash from escaping into the atmosphere.
- B. Person – Any natural person, partnership, association, firm, company, or corporation or other entity.

SECTION 2: PROHIBITED ACTS.

No Person shall conduct the following:

- A. Regulation, management or control of an Open Burning if under the age of eighteen (18).
- B. Open Burning within twenty-five (25) feet of any building.
- C. Open Burning within ten (10) feet of any adjoining line.
- D. Open Burning on any public or private street, street right-of-way, alley, road or highway.
- E. Open Burning of any items, at any time, for the purpose of disposal, which items may be accommodated through services provided by the Borough or its designee, including but not limited to leaves, brush, tree limbs and branches, household garbage and large item pickup.

- F. Open Burning consisting of construction residue and waste.
- G. The failure to extinguish Open Burning upon the request, which can be verbal, of an individual authorized to enforce this Ordinance in Section 6A below.
- H. Knowingly allowing, on real estate that they own, an Open Burning to be conducted by another Person (such as a tenant, invitee or guest).

SECTION 3: BURN BAN. It shall also be unlawful for any Person to conduct an Open Burning during a ban on Open Burning. A ban on Open Burning shall be determined when prevailing conditions and the interests of public safety mandate a restriction on Open Burning. The Fire Chief of the Alliance Fire and Rescue Services may recommend to the Felton Borough Council that it declare a ban on Open Burning. After receipt of the recommendation to ban Open Burning, the Borough Council may impose a ban on Open Burning. In the alternative, the Borough Council may declare a ban on Open Burning at its discretion. Notice of the imposition of any such ban on all Open Burning shall be announced by the Borough via radio, newspaper, or posting. After the Borough Council lifts any ban imposed on Open Burning, it shall provide similar notice. For purposes of this Section, it shall be presumed that the record of legal owner of any land upon which Open Burning is conducted shall have set such fire or permitted it to continue to burn where the owner consents to such action on his property by others, or does not take steps to extinguish the fire immediately upon learning about it.

SECTION 4: EXEMPTION.

A. The following activities are exempt from the Open Burning prohibitions in Section 2.B.

- 1. The performance of an official duty of any officer, if the Open Burning is necessary for the prevention of a fire hazard which cannot be abated by any other means.
- 2. An Open Burning required for the protection of public health at the direction of the appropriate public officer.
- 3. Instructing personnel in fire fighting when approved by a Fire Chief in their first response area in Felton Borough.
- 4. Ceremonies and activities done under adult supervision such as bonfires done in conjunction with school-related or civic functions, scouting and related activities, provided written approval from Felton Borough is obtained in advance.

B. The following activities are exempt from the Opening Burning prohibition in Section 2. D and F.

- 1. Open Burning in furtherance of agricultural purposes on any farm of 5 acres or more only between the hours of sunrise and sunset.

SECTION 5: CONTROL AND EXTINGUISHMENT.

- A. All fires, whether or not an Open Burning, shall be kept under competent and

continuous supervision.

- B. All flammable and combustible materials not in use as a fuel for a fire shall be removed a sufficient distance from a fire as to not constitute a hazard.
- C. Proper notification shall be made to the York County Emergency Center (911) of the time, place and period of an Open Burning.
- D. All fires, ashes and coals shall be thoroughly extinguished after the use thereof has been completed.
- E. Notification to the York County Emergency Center (911) shall be made when the Open Burning is completed.

SECTION 6: ENFORCEMENT, VIOLATIONS AND PENALTIES.

A. The Felton Borough Council hereby authorizes the Pennsylvania State Police, any police department providing services in Felton Borough, any elected or appointed official of Felton Borough, or a representative of Alliance Fire and Rescue Services (including but not limited to the Chief, Assistant Chiefs, Line Officers or Senior Firefighters on the scene) to enforce the provisions of this Ordinance. The Borough Council may authorize others to enforce this Ordinance by resolution. Said enforcement shall be in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

B. If any of the aforementioned individuals authorized to enforce this Ordinance has determined an Open Burning or Confined Burning to be unsafe, a hazard to the public or in violation of the Ordinance, they may direct the Person conducting the Open Burning to extinguish it immediately or such individual may extinguish the Open Burning. Failure to extinguish immediately upon request constitutes an additional violation of this Ordinance.

C. Any Person who shall violate any of the provisions of this Ordinance shall, upon summary conviction, be subject to a penalty of not less than \$50 nor more than \$600 per violation. Should such Person refuse or neglect to pay such penalty, such Person shall be subject to imprisonment to the extent allowed by law for the punishment of summary offenses.

D. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Ordinance which is found to have been violated.

SECTION 7: REPEALER. All prior ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 8: 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 this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this

Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 9: EFFECTIVE DATE. This Ordinance shall become effective five days after the date of its enactment as provided by law.

ENACTED AND ORDAINED this 16th day of Sept., 2024, by the Borough Council of the Borough of Felton, York County, Pennsylvania, in lawful session, duly assembled.

ATTEST:


Secretary

**BOROUGH COUNCIL FOR
FELTON BOROUGH**

By: 
President of Council

Approved this 16th day of SEPTEMBER, 2024.


Mayor