

**BOROUGH OF BELLEVUE**  
**COUNTY OF ALLEGHENY**  
**COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE NO. 12 - 08**

**AN ORDINANCE OF THE BOROUGH OF BELLEVUE, A HOME RULE MUNICIPALITY IN THE COUNTY OF ALLEGHENY, IN THE COMMONWEALTH OF PENNSYLVANIA, REPEALING ORDINANCE NO. 89-18; ESTABLISHING REGULATIONS AND RESTRICTIONS ON OPEN FIRES AND OPEN BURNING AND PROVIDING FINES AND PENALTIES FOR VIOLATIONS THEREOF.**

The Town Council of the Borough of Bellevue, County of Allegheny, Commonwealth of Pennsylvania, does hereby ordain and enact the following Ordinance:

**Article 1.    Definitions:**

“Flue” - As used in this Ordinance, the term any duct, pipe, stack, chimney or conduit which conducts air contaminants into the open air and which permits the performance of test methods and procedures specified in Chapter VI of Allegheny County Health Rules and Regulations, Article XX, Air Pollution Control (County Ordinance N. 16782), which be reference thereto is incorporated herein as part of this Part.

“Person” - As used in this Ordinance, the term any individual, natural person, syndicate, association, partnership, firm, corporation, institution, agency, authority, department, bureau or other instrumentality of Federal, State, local or regional government or other entity recognized by law as the subject of rights and duties.

“Small Open Fire” - As used in this Ordinance, the term “small open fire” or “open fire” shall mean the use of a grill, outdoor barbeque, fireplace or similar device to cook food with charcoal, natural gas, or wood; or any other fire from which the properties of combustion are emitted directly into the air without first passing through a structural flue, stack or chimney (except through a small integral flue, chimney or stack built into a freestanding grill or residential chiminea-type devise of five feet (5’) or less in total height), and being of such maximum size and using only such materials as authorized hereunder, and otherwise complying with this Ordinance, and conducted in such location, conditions, and in a manner which contributes only a negligible amount of air contaminants.

**Article 2. General Prohibition Prohibiting Fires and Burning without Permit:**

From and after the effective date of this Ordinance, no person, corporation, partnership, association, organization or other group whatsoever (hereinafter collectively referred to as “property owner” or “person” as applies) shall burn any materials of any kind in the Borough, except as authorized by this Ordinance or as authorized pursuant to a valid permit issued by Allegheny County pursuant to County Ordinances and regulations.

**Article 3. Small Open Fires Authorized; Permit Requirements:**

A. Subject to rules, regulations, and limitations contained in this Ordinance, an adult property owner or other adult authorized by the property owner may conduct or allow a small open fire on his or her property, solely for the following purposes:

1. warmth of outdoor workers (only at temperatures below 40° F); and
2. non-commercial preparation of food for human consumption, light, ornament, or recreation.

B. Permit Requirements: Except for portable grills/barbeques (which require no permit), before a property owner may allow Small Open Fires to be conducted on its property pursuant to this Ordinance, the Property Owner shall have first obtained from the Borough Fire Marshall, at no cost, a Small Open Fire Permit generally authorizing the use of the proposed fire pit (or other non-combustible receptacle, containment, or device) at the proposed location on the property. Upon receipt of an application/request for an Small Open Fire Permit, the Bellevue Fire Marshall shall promptly schedule a site visit with the Property Owner to review the proposed location and device. Upon verification that the proposed device and location are safe and otherwise comply with this Ordinance, the Fire Marshall shall approve same and shall issue to the Property Owner a Small Open Fire Permit for the device/location, along with a copy of this Ordinance. The Fire Marshall shall provide a written explanation of the reason(s) for denying a Permit application. The Fire Marshall shall maintain a Register/Log of all Small Open Fire Permits issued under this Ordinance, reflecting the Property address, owner, date of issuance, type of device, and the location on the property for which it was approved.

(It is not the intent of this Ordinance that a new Small Open Fire Permit be required prior to each occasion, but rather that, once issued for the particular device/location, such Permit shall remain valid as a general, open-ended, non-expiring permit allowing the continued use of the device/location to conduct Small Open Fires pursuant to this Ordinance so long as this Ordinance remains valid and in full force and effect. A new Permit shall be required if the device or location on the property are changed. All Permits are also subject to future Ordinance amendments and/or repeals. No vested or ‘grandfathered’ rights shall be conferred in any use/location/device approved or permitted hereunder, and any Permits issued hereunder shall automatically expire if the permitted location, device, or the open burning, becomes non-complaint or prohibited under any future Federal, State, County, or local law, regulation, or ordinance, including any duly enacted amendment hereto.)

**Article 4. Rules and Regulations Regarding Small Open Fires Authorized Without Permit:**

A. Permitted Receptacles/Containers:

1. For warmth of outdoor work crews: Small open fires for outdoor work crews (allowed only at temperatures below 40° F) may be conducted in non-combustible containers no larger than a 55 gallon drum, with all combustible material and the flame itself at all times to be completely contained within the container and with only one open fire per work crew.

2. Other Authorized Open Fires: All other small open fires authorized under this Ordinance must be contained within one of the following Authorized Containments: in a grill, barbeque, fireplace, chiminea, stone perimeter, non-combustible fire ring, drum, or other similar non-combustible receptacle, container or device, or in a fire pit. Fire pits, rings, drums or other similar devices shall be no larger than nine (9) square feet (3'x3') in area, and a fire pit or other device shall be no less than 18 inches deep (as measured from the base to the top of such pit or receptacle/device or to the top of any surrounding perimeter stones, ring or other non-combustible containment mechanism).

B. Permitted Locations:

1. Portable grills/barbeques designed for and used strictly for cooking only shall while in use be no less than five (5) feet from a house, structure, combustible materials, roadway, utility, or property line. (Note: No Permit is required for portable grills/barbeques!)

2. Permanently constructed (non-portable) outdoor stoves, ovens, grills, barbeques/fireplaces used for cooking only shall be no less than five (5) feet from a house, structure, roadway, property line, utility, tree, or other combustible materials, unless otherwise approved by the Fire Marshall.

3. Other Small Open Fires shall be maintained only in an Authorized Containment which, unless otherwise approved by the Fire Marshall, shall be located not less than ten (10) feet from the nearest house, structure, roadway, property line, utility, tree, or other combustible materials. (Nothing herein shall prohibit the Fire Marshall from approving a permit for the installation or use of a patio chiminea or other manufactured or constructed patio fire table, or similar containment device intended for use on a deck or patio, provided that the device is designed and recommended by the manufacturer for such use and the Property Owner has complied with all of the manufacturer's safety recommendations regarding the location, installation and/or use of such device.)

C. Permitted and Prohibited Materials:

1. Permitted Materials: All open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel; dry, clean, logs, twigs, or other untreated wood products. Only smokeless fuels, or small kindling, if any, may be used to start a fire.

2. Prohibited Materials: The use of any material(s) to start or maintain a fire other than those specifically permitted under Article 4.C.1 hereof, including but not limited to any of the following materials, is strictly prohibited: No paints; painted or chemically treated woods; railroad ties; telephone poles; plastics; cardboard boxes; paper or paper products; garbage, or any other household or residential wastes; construction waste or demolition/salvage debris; commercial or industrial materials or waste; oil, grease, gasoline, asphalt products, or any other petroleum products; rubber; tires; tar or tar paper; dead animals; animal or human waste; pathogenic waste; insulated wire; toxic or noxious materials, cloth, leaves, green yard waste, or other materials that tend to cause excessive or malodorous emissions or excessive smoke.

D. Maximum Size: In all cases, the fire shall be of such size that the combustible material and flame are contained completely within the perimeter of the authorized containment receptacle, and in no case may the combustible material and flame be greater than nine (9) square feet (3'x3') in area or in excess of two (2) feet in height above the receptacle.

E. No Excessive Smoke, Odors or Malodorous Emissions: No persons shall allow or maintain a fire which creates excessive smoke, excessive odor, or malodorous emissions. Smoke and odors shall be considered excessive if they contribute more than a negligible amount of air contaminants perceptible beyond the property line of the source of the fire.

F. Adult Supervision, Control, Extinguishment: Only an adult property owner or other adult authorized by the property owner shall authorize or conduct a small open fire. The adult property owner or other adult authorized by the property owner to conduct such a fire shall at all times be present at and shall tend to the fire from the time it is lit through the time of total extinguishment. Adequate means to control and extinguish the open fire shall be readily available at all times during any burning. Suitable covering or means of disposal of ashes shall be provided to prevent them from becoming air-borne. The adult property owner or other authorized person supervising the fire shall be responsible to assure that all aspects of the fire comply with this Ordinance and shall assure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or non-compliant fire or burning, the property owner or other person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning. Proof that the defendant in any enforcement action owns or controls the property on which open burning occurs shall be prima facie evidence that such person has conducted, or allowed to be conducted, such open burning.

**Article 5. Police Authorized to Order Immediate Extinguishment, Abatement or Correction of Fires:**

A police officer, Fire Marshall, Code Official, or other duly authorized law or code enforcement officer of the Borough of Bellevue may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected (in his or her sole discretion) if, in the officer's sole judgment, the fire:

- A. is emitting excessive smoke, excessive odor, or malodorous emissions;
- B. contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- C. is in a prohibited location or of a prohibited size;

- D. is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
- E. where its size, materials, containment, location, emissions, proximity to structures, trees, other combustible materials, conduct of participants, weather conditions (including but not limited to wind, drought, dry or other conditions) or air quality, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property.

**Article 6. Prohibited Acts.**

A. No person, firm or corporation shall permit, authorize, conduct, or participate in the burning of any open fire except in compliance with this Ordinance.

B. No person, firm or corporation shall refuse to comply immediately and fully with any order of a Bellevue Borough Police Officer, Fire Marshall, or other duly authorized law enforcement officer or code official to contain, control, correct, or extinguish, any fire or burning.

**Article 7. Penalties.**

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than the greater of one thousand dollars (\$1,000.00) or the maximum amount per offense permitted under law, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each violation of any provision of this Ordinance shall constitute a separate offense. In addition, in any civil enforcement action brought by the Borough to collect unpaid fines or penalties imposed pursuant to this Ordinance, the Borough shall also be entitled to collect all costs, expenses, and attorneys fees associated with such action.

**Article 8. Severability:**

In the event that any section or sections of this Ordinance, or parts of the same, shall be declared to be invalid by any Court of competent authority, the remaining provisions of this Ordinance shall continue in full force and effect notwithstanding.

**Article 9. Repealer:**

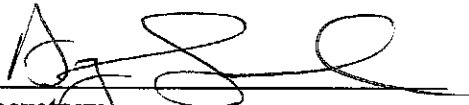
This Ordinance is intended to repeal and replace in its entirety Ordinance No. 89-18 (enacted September 5, 1989). In addition, any other Ordinance or part(s) of any Ordinance(s) which conflicts with the terms and provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**Article 10. Effective Date:**

This Ordinance shall take effect immediately as provided under law.

**ORDAINED AND ENACTED THIS 12<sup>th</sup> DAY OF June, 2012**

**ATTEST:**

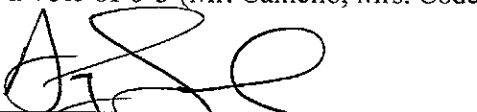
  
Secretary

  
Linda Woshner, President of Council

Examined and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Hon. George Doscher, Mayor**

Mayor George Doscher vetoed Ordinance 12-08 on June 19, 2012 (see attached veto). Town Council overrode this veto at the July 3, 2012 meeting by a vote of 6-3 (Mr. Camello, Mrs. Coder, and Mr. Helbling voted no).

  
Douglas Sample, DAS

June 19, 2012-06-19

Bellevue Council,

I am vetoing ordinance 12-08, the Recreational Burning Ordinance because of my following concerns.

1. Other than the new requirement of a fire pit 3ft x 3ft versus the County regulation of 4ft x 4ft and the need to have it certified as "safe" by a designated Bellevue enforcement official, it duplicates what has been in place for many years under the Allegheny County regulations.
2. The requirement of "grills" to be a minimum of 5 ft. from any structure.

I would hope that Bellevue Council would better direct their efforts on the many very important issues that our community is facing such as blight, code enforcement of dilapidated housing as well as rental properties that have become an issue due to irresponsible landlords, many who do not live in Bellevue. Development of our business district to attract new shops and restaurants as well as offer more opportunities for Bellevue citizens to Live, Worship and Shop in our community before they choose to support stores outside of Bellevue. These are but of a few issues that need the priority attention of Bellevue Council.

George Doscher

Mayor of Bellevue