

COPY

ORDINANCE NO. 201

**BOROUGH OF AVONDALE
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF AVONDALE BOROUGH, CHESTER COUNTY, PENNSYLVANIA, PROHIBITING, GENERALLY, OPEN FIRES AND BURNING, PROVIDING EXCEPTIONS THERETO, REQUIRING SEPARATION OF CERTAIN COMPOSTING MATERIALS, ESTABLISHING PENALTIES FOR ANY PERSON FAILING TO COMPLY WITH THIS ORDINANCE, REPEALING INCONSISTENT ORDINANCES AND PARTS THEREOF, AND PRESERVING A PART OR PARTS OF THIS ORDINANCE IN THE EVENT OF A DETERMINATION OF UNCONSTITUTIONALITY.

BE IT ENACTED AND ORDAINED by the Borough Council of Avondale Borough, Chester County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

SECTION 100. DEFINITIONS

As used in this Ordinance, the following terms shall have the following meanings unless a different meaning clearly appears in the context of the Ordinance itself:

- A. Borough:** Avondale Borough, Chester County, Pennsylvania.

- B. Borough Council:** The Borough Council of Avondale Borough, Chester County, Pennsylvania.
- C. Composting:** A process involving the microbial decomposition of organic matter.
- D. Leaf Waste:** Leaves, garden residues, grass clippings, shrubbery and tree trimmings, hedge clippings, and similar materials.
- E. Open Burning:** The burning by any means of any materials, or any combination of materials of any nature outside of any building, where the products of the combustion are emitted directly into the ambient air without passing through a stack, chimney, or flue from an enclosed chamber within a building. For purposes of this definition, a chamber shall be regarded as "enclosed" when during combustion, only apertures, ducts, stacks, flues, chimneys, etc. necessary to permit the escape of the exhaust gas or gases are open.
- F. Open Fire:** The same as open burning.
- G. Person:** An individual, partnership, association, corporation, department, bureau, agency, or other legal entity.
- H. Recreational Fire:** An outdoor fire maintained in a commercially constructed grill or masonry constructed grill for the purposes of heating, cooking, and preparing food for human consumption.

SECTION 200. PROHIBITION AGAINST ANY OPEN BURNING OR OPEN FIRES

- A. Subject to the exceptions in Section 300. of this Ordinance, open burning and open fires of any nature are strictly prohibited within the municipal limits of Avondale Borough.

SECTION 300. EXCEPTIONS TO PROHIBITION AGAINST OPEN BURNING OR OPEN FIRES

- A. Open burning or open fires as otherwise prohibited by this Ordinance are subject to the following exceptions:
1. A Recreational Fire (as defined herein); and
 2. Open burning or open fires ignited by any public officer in the exercise of his or her official duty if the fire is necessary for:
 - a. the prevention of a fire hazard which cannot be abated by other means;
or
 - b. the protection of public health.

SECTION 400. MANDATORY SEPARATION OF LEAF WASTE

- A. The occupant or owner of every home, apartment, or other residential establishment shall separate leaf waste from all other solid waste, and separated leaf waste shall not be mixed with any other waste for curbside collection by the Borough, nor shall any leaf waste be placed in trash "toters".

- B. The leaf waste shall be placed in biodegradable paper bags, in reusable containers, or in bulk containers.
- C. Tree trimmings, hedge clippings, and similar material comprising leaf waste shall be cut in lengths not to exceed three (3) feet, and must be tied in bundles which can be easily handled by one (1) person.
- D. Leaf waste shall be placed for curbside pick-up and composting by the Borough on days designated by a Resolution of the Borough Council.
- E. Any resident of the Borough may deposit leaf waste at a composting location within the Borough designated by Resolution of the Borough Council.

SECTION 500. PENALTIES

- A. Any Person violating this Ordinance, upon conviction before a District Justice, shall be sentenced to pay a fine of not less than Six Hundred Dollars (\$600.00) nor more than One Thousand Dollars (\$1,000.00) for each violation, plus costs of prosecution.
- B. Each day this Ordinance is violated shall constitute a separate offense.
- C. In addition to the penalties set forth above, Avondale Borough may enforce this Ordinance by an Action in Equity or at Law, and all costs of any such action (including attorney's fees) shall be recoverable from the defendant.

SECTION 600. REPEALER

- A. All Avondale Borough Ordinances or parts thereof inconsistent with or in conflict with this Ordinance or any parts thereof are hereby repealed.

SECTION 700.

SEVERABILITY

- A. If any Section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the constitutionality, legality, or validity of this Ordinance as a whole, nor the constitutionality, legality, or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal, or invalid.

SECTION 800.

EFFECTIVE DATE

- A. This Ordinance shall become effective on the earliest date permitted by law.

ORDAINED AND ENACTED by the Borough Council of Avondale Borough at a Public Meeting held this 18 day of February, 2003.

ATTEST:

AVONDALE BOROUGH COUNCIL

Becky Brownback
BECKY BROWNBACK, Secretary
Avondale Borough

By: R. N. McCue
ROBERT N. McCUE, President

APPROVED THIS 18 **DAY OF** February, 2003.

By: Doris E Howell
DORIS E. HOWELL, Mayor