

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF BELLEFONTE, CENTRE COUNTY, PENNSYLVANIA REPEALING AND REPLACING CHAPTER 180, AIR POLLUTION OF THE BELLEFONTE BOROUGH CODE OF ORDINANCES.

Be it enacted and ordained by the Council of the Borough of Bellefonte, and it is hereby enacted and ordained by the authority of the same.

SPECIFIC PROVISIONS

Repeal Chapter 180, Air Pollution and replace as follows:

§ 180-1. Purpose and Intent.

The Council of the Borough of Bellefonte finds that the uncontrolled emission of odors, dust particulates, smoke, open burning emissions, and air contaminants from certain industrial sources and incinerators may constitute nuisances; threaten the public health, safety, and welfare; and interfere with the reasonable use and enjoyment of property. It is the purpose and intent of this ordinance to mitigate such nuisances in order to protect the public health, safety, and welfare. It is not the intent of this ordinance to restrict or prohibit matters under the regulatory control of the Pennsylvania Air Pollution Control Act, nor to duplicate state and federal permitting requirements.

§ 180-2. Definitions.

As used in this chapter:

Air contaminant. Any particulate matter, dust, fumes, gas, mist, smoke, vapor, odor, or combination thereof emitted into the outdoor atmosphere.

Air pollution. The presence in the open air of one or more air contaminants or combinations thereof in such place, manner or concentration that they are or may tend to be inimical to the health, safety or welfare of the public or in excess of the limitations established in this chapter.

Dust particulates. Solid airborne particles capable of being dispersed by wind or mechanical activity, including but not limited to soil, sand, ash, and construction debris.

Incinerator. A combustion device specifically designed for the destruction, by burning, of solid, semisolid, liquid or gaseous combustible wastes.

Industrial source. Any facility engaged in manufacturing, processing, or large-scale commercial activity that emits air contaminants.

Nuisance air pollution. The emission of air contaminants in such quantity or duration that it:

- (1) Unreasonably interferes with the use and enjoyment of property;
- (2) Endangers public health or safety; and/or
- (3) Causes material damage to property.

Open burning. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

Recreational fire. An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three (3) feet or less in diameter and two feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

§ 180-3. General Prohibition.

No person shall cause, suffer, allow, or permit the emission of air contaminants in a manner that constitutes a nuisance air pollution condition within the Borough.

§ 180-4. Odors.

- A. No person shall emit odorous air contaminants in such quantity or duration that they are detectable beyond the property line and unreasonably interfere with neighboring properties.
- B. In determining whether an odor constitutes a nuisance, the Borough may consider the frequency; duration; intensity; time of day; and number of affected persons.
- C. Compliance with a permit issued by the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency shall not be a defense to a nuisance determination under this section, provided the Borough does not regulate emission standards preempted by state law.

§ 180-5. Dust and Particulate Matter.

- A. No person shall allow dust or particulate matter from construction, demolition, excavation, industrial operations, or similar activities to migrate beyond the property boundary in a manner that creates a nuisance.
- B. It shall be required to employ reasonable control measures to mitigate the spreading of dust and particulate matter including, but not limited to water spraying; covering of trucks; soil stabilization; installation of dust barriers; and street sweeping access drives.
- C. The Borough may require the installation of best management practices to mitigate excessive dust emissions.

§ 180-6. Open Burning and Recreational Fires.

- A. Recreational fires shall be permitted subject to regulations promulgated by the Centre Region

Building Safety and Property Maintenance Code and subject to the following additional restrictions:

- (1) Fire size shall not exceed three (3) feet in diameter and two (2) feet in height.
 - (2) Only clean, dry, untreated wood or charcoal may be burned.
 - (3) Fires shall be contained in a fire ring, pit, or chiminea.
 - (4) Fires shall be constantly attended by a responsible adult.
 - (5) A means of extinguishment shall be immediately available.
- B. Recreational fires shall be immediately extinguished upon complaint of excessive smoke or odor verified by a Borough official.
- C. Except for recreational fires as defined in this ordinance, an open burning permit shall be required for the kindling and maintenance of an open fire.
- D. The Borough may prohibit all open burning during times of poor air quality declared by the Pennsylvania Department of Environmental Protection, drought conditions, and fire emergencies.

§ 180-7. Incinerators.

- A. No incinerator shall be installed or operated within the Borough without compliance with all applicable regulations and local, state, and federal permit requirements, where applicable.
- B. Incinerators shall not emit smoke, fly ash, or odors in a manner constituting a nuisance.
- C. The Borough reserves the right to inspect incinerators for compliance with nuisance standards.

§ 180-8. Industrial Sources.

- A. All industrial sources shall comply with all applicable regulations and local, state, and federal permit requirements, where applicable.
- B. In addition to state requirements, no industrial source shall emit air contaminants in such manner as to create a nuisance condition within the Borough.
- C. Nothing herein shall establish emission limits preempted by state or federal law.

§ 180-9. Enforcement and Penalties.

- A. Enforcement of the regulations established by this ordinance shall be the responsibility of the Code Enforcement Officer. Each day a violation continues shall constitute a separate offense. Upon determination of a violation, the Code Enforcement Officer may:
- (1) Issue a written notice of violation;
 - (2) Order cessation of the activity;
 - (3) Require abatement of the nuisance;
 - (4) Issue non-traffic citations; or
 - (5) Pursue equitable relief in court.
- B. Any person who violates this ordinance shall, upon conviction before a Magisterial District

Judge, be required to pay a fine of not less than \$100 nor more than \$1,000 per violation. In default of payment, imprisonment may be imposed as provided by law.

§ 180-10. Emergency Abatement.

Where a condition presents an immediate threat to public health or safety, the Borough may take necessary action to abate the nuisance and recover costs from the responsible party.

§ 180-11. Severability.

If any provision of this ordinance is declared invalid, the remaining provisions shall remain in full force and effect.

§ 180-12. Repealer.

All ordinances or parts thereof inconsistent herewith are repealed to the extent of such inconsistency.

§ 180-13. Effective Date.

This ordinance shall take effect thirty (30) days after enactment.

ENACTED AND ORDAINED into an ordinance this ____ day of _____ 2026, by the Council of the Borough of Bellefonte in lawful session duly assembled.

ATTEST:

BOROUGH OF BELLEFONTE:

David Pribulka
Interim Borough Manager/Secretary

Doug Johnson
President of Council

AND NOW, to wit, this ____ day of _____ 2026, the within and above ordinance is approved.

Gene "Buddy" Johnson, Mayor