

Part 4, Fires and Open Burning

§401. Definitions.

As used in this Part, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

FURNACE – any specific device specifically designated for burning any material for the production of heat in and for an occupied structure. [Ord. 2000-5]

GARBAGE – all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

GOVERNING BODY – the Board of Supervisors of Smith Township.

GRUBBING WASTES – trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition wastes and dirt laden roots. [Ord. 2003-7]

INCINERATOR – any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

OPEN FIRE – a fire in which any material is burned or was burned and/or is smoldering in open air or in a receptacle other than a furnace or incinerator. [Ord. 2003-7]

PERSON – any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

REFUSE – garbage, rubbish and trade waste.

RUBBISH – solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, trees and/or tree parts including branches, leaves, trimmings and the like, furniture, tin cans, glass, crockery, masonry, tires, appliances, mattresses and other similar materials. [Ord. 2003-7]

SALVAGE OPERATION – any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to, metals, chemicals, containers or drums.

TRADE WASTE – a solid or liquid material or rubbish from construction, building operations or the prosecution of any business, trade or industry including, but not limited to, plastic products, cartons, paint, grease, oil and petroleum products, chemicals, cinders, shingles and other forms of solid or liquid waste material; provided, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal. [Ord. 2003-7]

YARD WASTE – leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material. [Ord. 2003-7]
(Ord. 90-2, 8/13/1990, §101; as amended by Ord. 2000-5, 9/11/2000; and by Ord. 2003-7, 11/10/2003, §401)

§402. Enforcement.

The Zoning Officer of Smith Township, and/or the police officers and/or members of the police department of Smith Township as well as the Supervisors of Smith Township shall have the power and duty to enforce the provisions of this Part and therein each police officer, Supervisor and Zoning Officer shall be considered an enforcement officer. (Ord. 90-2, 8/13/1990, §102)

§403. Regulations.

Within the limits of Smith Township, no person shall:

1. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside any building.
2. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse, or in the conduct* of a salvage operation on any property under his control outside any building.
* Ord. 90-2 read "conduit."
3. The terms and conditions contained in this Part as to salvage operations shall be subject to and be limited by the other terms and conditions contained in the Smith Township Code of Ordinances pertaining to the operation of a salvage business or operation.
4. No fire shall be allowed to burn unattended without a responsible adult being present at all times and without readily available fire extinguishing apparatus. No fire shall be set that results in uncontrolled burning of vegetation (field fires). A responsible adult is defined to be an individual eighteen (18) years or older (sixteen (16) years or older if a certified Junior Firemen) who is not under the influence of drugs or alcohol or suffering from any disability which would impair his or her ability to properly supervise a fire. [Ord. 2003-7]

§404. Exceptions.

1. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for the prevention of a fire hazard which cannot be abated by other means or is necessary for the protection of public health, safety and welfare.

A. The following open fires may be set without a permit subject to the limitations contained herein and/or unless otherwise specifically required:

(1) Open fires set to prevent or abate a fire hazard when approved by the Department of Environmental Protection Regional Air Quality Program Office, if thereby required, and when set by or under the supervision of a public officer such as, but not limited to, fire department personnel.

(2) Open fires set for the purpose of instruction personnel in firefighting when approved by the Department of Environmental Protection Regional Air Quality Program, if thereby required.

(3) Open fires set for the purpose of burning grubbing waste.

(4) Open fires set for the purpose of burning yard waste.

B. All of the aforementioned permitted fires must occur within the time limit parameters as contained hereinbelow.

C. All of the aforementioned fires, as well as those permitted hereinbelow must be in accordance with the rules, regulations, restrictions and requirements of the Department of Environmental

Protection and/or the Regional Air Quality Program.
[Ord. 2003-7]

2. Open fires may be set as pertain to the following without a permit: [Ord. 2003-7]
 - A. Leaves, branches, other nonputrescible vegetation matter, untreated wood and household paper products only are burned. [Ord. 2003-7]
 - B. There is no practical available alternative method for disposal of the material to be burned.
 - C. No hazardous or other objectionable condition will be created by such burning.
 - D. No such burning is allowed on any street or sidewalk within Smith Township.
 - E. All such burning must take place between the hours of 7:00 a.m. and 10:00 a.m. on Fridays and Saturdays only. Additionally, all fires must be completely extinguished with no smoldering by 10:00 a.m. and/or by any other time period as designated in this Part or otherwise established by the enforcement officer. [Ord. 2003-7]
 - F. No burning whatsoever shall be permitted on Sundays or the following holidays; New Year's Day, Good Friday, Memorial Day (observed), Memorial Day (traditional), Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
 - G. The Township itself by and through its agent reserves the right to deny burning if weather conditions are such that said burning is deemed to be dangerous or if such burning in and of itself is deemed to be a threat to the general health, safety and welfare of the Township and/or its citizens.
 - H. The above terms and conditions notwithstanding, if a business entity or an individual engaged in an ongoing business wherein, burning is a regular aspect of said business, the same shall be permitted pursuant to this Part if the same is otherwise permitted pursuant to this Part and/or Code of Ordinances wherein the same shall be in compliance with all other ordinances and rules and regulations of Smith Township including but not limited to the Zoning Ordinance, Waste Ordinance, and any and all rules and regulations provided or mandated by the Department of Environmental Resources of the Commonwealth of Pennsylvania.
 - I. The above terms and conditions notwithstanding, this Part shall not apply to normal outdoor cooking, barbecuing and the like wherein no person is required to obtain a permit nor shall said activity be in violation of this Part if the same is conducted for purposes of preparing food for consumption on the premises and is otherwise conducted in a proper and careful manner under the circumstances.
 - J. The Township of Smith and its officers, employees and agents are exempt from the provisions of this Part when the burning activity is conducted in the furtherance of Township operations or procedures.
 - K. A permit is required from the Enforcement Agent as appointed by resolution of the Board of Supervisors for any open fires that are otherwise permitted which take place on days and/or times other than as restricted in subsection (E) above. This requirement of a permit includes, but is not limited to, agricultural activities, as well as situations wherein a hardship may exist. [Ord. 2003-7]
 - L. The Board of Supervisors shall establish by resolution, now and in the future, the amount of the application fee for the processing of the approval requests to the authorized enforcement agent. [Ord. 2000-5]
(Ord. 90-2, 8/13/1990, §101; as amended by Ord. 2000-5, 9/11/2000; and by Ord. 2003-7, 11/10/2003, §404)

§405. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of

summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000,00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. (Ord. 90-2, 8/13/1990; as amended by Ord. 97-5, 11/19/1997)

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D. No such burning is allowed on any street or sidewalk within Smith Township.

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