

Chapter 106

BURNING, OPEN

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[HISTORY: Adopted by the Board of Supervisors of the Township of Fairview 11-1-2004 by Ord. No. 8-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 162.

Subdivision and land development — See Ch. 225.

§ 106-1. Title.

This chapter shall be known as the "Fairview Township Burning Ordinance."

§ 106-2. Prohibited fires.

No person or legal or commercial entity shall set or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in the Township of Fairview, or burn or cause to be burned thereon any paper, cardboard, rubbish, leaves or other materials or substances of any kind. Nor shall any person or legal or commercial entity set or maintain any fire or burn or cause to be burned any substance or material of any kind out of doors, except as hereinafter provided.

§ 106-3. Rules and regulations for permitted fires.

Out-of-doors fires shall be permitted upon private property in the Township of Fairview, provided that the following regulations and restrictions are strictly adhered to:

A. Open-burning operations resulting from:

- (1) A fire set to prevent or abate a fire hazard, when approved by the Pennsylvania Department of Environmental Protection and set by or under the supervision of a public officer.

- (2) Any fire set for the purpose of instructing personnel in firefighting, when approved by the Pennsylvania Department of Environmental Protection.
- (3) A fire set for the prevention and control of disease or pests, when approved by the Pennsylvania Department of Environmental Protection.
- (4) A fire set in conjunction with the production of agriculture commodities in their manufactured state on the premises of the farm operation.
- (5) A fire set for the purpose of burning yard waste, when the fire is on the premises of a structure occupied solely as a dwelling by two families or less and when the refuse results from the normal occupancy of the premises.
- (6) A fire burning only wood or wood materials, excluding leaves, set solely for recreational or ceremonial purposes.
- (7) A fire set solely for cooking food.
- (8) A fire set for the purpose of burning, clearing and grubbing wastes which are cleared from land during or prior to the process of construction, as permitted by the Pennsylvania Department of Environmental Protection Regulations (25 Pa. Code § 129.14), and provided that such burning is attended by an adult at all times and occurs only during those hours provided by § 106-4C and D below.

§ 106-4. Definitions; regulation of out-of-door fires pertaining to yard waste.

- A. Definition. As used in this chapter, the following terms shall have the meanings indicated:

GRUBBING WASTE — 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 waste and dirt-laden roots.

YARD WASTE — Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material originating on the premises of the structure occupied solely as a dwelling by two families or less.

- B. No such fire shall be closer than 15 feet from any building or structure, or closer than 30 feet from any property line or public right-of-way line.
- C. From Memorial Day through Labor Day, no such fire shall be allowed to burn except on Wednesday between the hours of 12:00 noon and 8:00 p.m.
- D. From Labor Day through Memorial Day, no permitted fire shall be allowed to burn except on Wednesday and Saturday between the hours of 12:00 noon and 5:00 p.m.
- E. All out-of-door fires as permitted shall be attended at all times by an individual who is 18 years or older and who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

§ 106-5. Open burning as nuisance.

In the event that open burning otherwise permitted by this chapter causes smoke and/or odor offensive to the public, the provisions of Ordinance No. 10 of 1982, the Nuisance Ordinance of Fairview Township, shall pertain to such burning. Such burning shall be subject to penalties in the aforesaid Nuisance Ordinance.¹

§ 106-6. Restriction on burning in drought or extreme weather conditions.

No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body.

§ 106-7. Liability.

The Township of Fairview and its agents, officials and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the conduct of the burning activity in compliance with the terms and provisions of this chapter. The person, legal or commercial entity or party responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

§ 106-8. Extinguishing unsafe fires.

Any fire set or allowed to burn in violation of this chapter may be extinguished by Hose Company No. 1 of Fairview Township or other authorized body, without prior notice to the landowner. In the event that a fire company is required to respond to a fire which violates this chapter, a service fee may be levied by the responding fire company.

§ 106-9. Enforcement.

The Fairview Township Police Department shall be responsible for enforcing the provisions of this chapter and may issue such orders as are necessary to aid in the enforcement of the provisions of this chapter.

§ 106-10. Violations.

In addition to the regulations and conditions for burning contained herein, burning of construction debris, plastics, by-products of manufacturing and processing operations and waste from commercial operations is strictly prohibited. Nothing herein shall be construed to permit or encourage the burning of any substances determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance, nor shall any fire be permitted to burn by any person or any legal or commercial entity if such burning is in violation of the Air Pollution Control Act or other legislation of

1. Editor's Note: See Ch. 162, Nuisances.

the Commonwealth of Pennsylvania or of the United States of America or any other competent body.

§ 106-11. Violations and penalties.

- A. Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. ²
- B. No penalties herein shall prevent the Township from enforcing this chapter by equitable, conjunctive and other remedies.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).