

## Chapter 72

### BURNING, OPEN

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|-------------------------------|-----------------------------------|
| § 72-1. Title.                | § 72-5. Burning regulations.      |
| § 72-2. Authority.            | § 72-6. Enforcement orders.       |
| § 72-3. Findings and purpose. | § 72-7. Violations and penalties. |
| § 72-4. Definitions.          | § 72-8. Unlawful conduct.         |

[HISTORY: Adopted by the Board of Supervisors of the Township of Independence 7-2-2003 by Ord. No. 4-2003. Amendments noted where applicable.]

#### GENERAL REFERENCES

Disorderly conduct — See Ch. 85.  
Nuisances — See Ch. 135.

Solid waste — See Ch. 170.

#### § 72-1. Title.

This chapter shall be known and may be cited as the “Independence Township Open Burning Ordinance of 2003.”

#### § 72-2. Authority.

The municipal government of Independence Township under, and by virtue of and pursuant to, the authority granted by municipal code, does hereby enact and ordain this chapter.

#### § 72-3. Findings and purpose.

It is hereby declared to be a matter of public health and safety to regulate the disposal of waste by open burning in the Township of Independence. It is further declared that the dangers of open fires, the air pollution from fires, and the management of waste removal and disposal necessitate regulation to protect the peace, good order and welfare of the Township and the health and safety of its citizens.

#### § 72-4. Definitions.

The following words, terms and phrases, when used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

ADULT — An individual 18 years or older 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.

**BURNING** — The act of consuming by fire; to flame, char, scorch or blaze. As used in this chapter, “smoldering” shall have the same meaning as “burning” and any smoldering shall be deemed as burning.

**CLEARING AND GRUBBING WASTES** — Trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction or agricultural land maintenance.

**DOMESTIC REFUSE** — All perishable animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food; any solid or liquid material which, when ignited, creates toxic or noxious fumes including, but not limited to, plastics, rubber, petro-chemicals, furniture, carpets, rags, old clothing and any waste not herein defined as yard waste or trade waste.

**MUNICIPALITY** — A city, incorporated town, borough, county, township or other public body created under commonwealth law having jurisdiction over the disposal of wastes.

**OPEN BURNING** — A fire emitting contaminants directly into the atmosphere, not directed through a flue.

**PERSON** — Any individual, public or private corporation for profit or not for profit, association, partnership, firm, estate, department, board, bureau or agency of the commonwealth or the federal government, municipality, district authority, or any other legal entity whatsoever, recognized by law as the subject of rights and duties.

**TRADE WASTE** — All solid or liquid waste material resulting from construction, building operations, or the performance of any business, trade or industry including but not limited to asphalt shingles, electric wiring, plastic products, cartons, paint, grease, oil, and other petroleum products, chemicals, cinders, processed wood and other forms of solid and liquid waste material, provided, however, that the trade waste shall not include any coal refuse associated with the mining or preparation of coal.

**YARD WASTE** — Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material from residential yard maintenance.

#### **§ 72-5. Burning regulations.**

- A. All open burning requires adult supervision and no fire will be left unattended.
- B. All open burning shall be done in an approved container such as a metal barrel or concrete enclosure and conform to the following:
  - (1) Said container shall be placed on privately owned property, but in no event shall be placed closer than 25 feet from any property line or from any dwelling or structure, inhabited or not.
  - (2) Said container shall not be placed on or near any combustible material nor on the surface of any public street or road.
- C. Clearing and grubbing waste may be burned subject to the following requirements:  
[Amended 3-11-2009 by Ord. No. 1-2009]

- (1) (Reserved)
  - (2) No controlled burning shall take place on any day before 6:00 a.m. or after 10:00 p.m. or on legal holidays. The time limitation set forth in this provision may be waived by the Chief of the Independence Township Volunteer Fire Company, or his designee.
- D. Burning leaves prohibited. No person shall burn tree leaves or other residential yard waste for any reason within the Township of Independence.
- E. Wastes of any kind cannot be transported for the purpose of burning from one area of the municipality to another or into the municipality from any other municipality.
- F. The municipal governing body may declare a fire ban emergency in the municipality with or without consultation with the Fire Chief of the volunteer company operating within the municipality during a period of drought, or other periods of high risk to woodlands or property within the municipality. Upon the municipal governing body declaring a fire ban emergency, all outdoor burning or fire shall be prohibited until the ban is lifted by the municipal governing body. Notice of declaring or lifting a fire ban shall be published at least once in a local newspaper of general circulation.
- G. The following types of fires are exempt from all the provisions of this chapter except § 72-5F, Fire bans:
- (1) Fire solely for cooking food.
  - (2) Recreational fires for warmth, fellowship, food preparation, camping, ceremonial purposes of private individuals or organizations (i.e., Boy/Girl Scouts).
  - (3) Fires set in the performance of an official duty by any fireman or public officer where the fire is for the prevention of a hazard which cannot be abated by any other means; for the protection of health, safety, or welfare; for the purpose of instructing personnel in fire safety; or for other official purposes.

#### **§ 72-6. Enforcement orders.**

- A. The Chief of Police and any other police officer, the municipal ordinance enforcement officer, and any other duly authorized agent shall have the power and duty to enforce the provisions of this chapter.
- B. Whenever the ordinance enforcement officer finds open burning occurring in the municipality, other than those exceptions noted in § 72-5 above, the ordinance enforcement officer may order the owner or operator to take corrective action in a manner satisfactory to the municipality or order the owner/operator to allow access to the land by a third party to take such action.

#### **§ 72-7. Violations and penalties.**

Any person violating any provision of this chapter shall be subject to the appropriate penalties set forth in Chapter 1, General Provisions, Article II

**§ 72-8. Unlawful conduct.**

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this chapter or fail to comply with any order or other requirement of the municipality; or to cause a public nuisance; or to hinder, obstruct, prevent, or interfere with the municipality or its personnel in the performance of any duty hereunder, including denying the ordinance enforcement officer or other authorized personnel access to the property in question.