

Chapter 76

BURNING, OPEN

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[HISTORY: Adopted by the Board of Supervisors of the Township of East Allen 11-20-2013 by Ord. No. 2013-02 .¹ Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 87, Art. II.

Nuisances — See Ch. 155.

Hazardous materials — See Ch. 121.

Solid waste — See Ch. 197.

§ 76-1. Short title.

This chapter shall be known and may be cited as the "East Allen Township Prevention of Fires and Air Pollution from Open Burning Ordinance."

§ 76-2. Purpose.

This chapter is adopted for the purpose of promoting public health, life, safety, morals, welfare, peace, decency, and reasonable and comfortable use of property, and the tranquility of the community of the Township of East Allen, County of Northampton, Commonwealth of Pennsylvania, and to prohibit the burning or incineration of any and all materials, whether animal, vegetable or otherwise, within the Township of East Allen, except as hereinafter permitted.

§ 76-3. Definitions and word usage.

Certain words and terms are used in this chapter for the purposes hereof and are defined as follows:

BURN or 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 a burning.

DOMESTIC REFUSE — Any nonputrescible waste consisting of Class A combustible materials, such as paper, cardboard, wood, or similar materials, generated from within a dwelling, including the real property upon which it is situated, containing two living units or fewer.

1. Editor's Note: This ordinance also provided for the repeal of former Ch. 76, Burning, Open, adopted 9-27-2007 by Ord. No. 2007-07.

CLASS A COMBUSTIBLE — Untreated wood, paper or wood products and paper products that, when burned, do not emit dangerous or noxious fumes or smoke.

OPEN BURNING or OPEN FIRE — A fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue.

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

PUTRESCIBLE WASTE — Solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odors and to be capable of attracting or providing food for birds or animals.

RECREATIONAL OR CEREMONIAL PURPOSES — Open burning where the fuel being burned is not contained in an approved container and the burning occurs for pleasure, religious, ceremonial, cooking, warmth or other similar purposes. An example includes, but is not limited to, bonfires and other fires. The size of a recreational or ceremonial fire shall be limited to and shall not exceed two feet wide by two feet deep by two feet high.

§ 76-4. Prohibitions.

- A. It shall be unlawful for any person to burn, ignite, incinerate, or allow to burn, ignite or incinerate, any and all materials, the burning of which shall emit smoke or noxious fumes, or to cause and allow an open fire or open burning to occur. Any person violating any provision of this chapter shall be subject to the penalties herein provided. A violation of any provision of this chapter on more than one day shall constitute separate offenses for each day on which a violation occurs.
- B. It shall be unlawful for any person to burn:
 - (1) Yard waste; and/or
 - (2) Material other than Class A combustibles.

§ 76-5. Exceptions.

The prohibitions set forth in § 76-4 do not apply where the burn, burning, open burning or open fire results from:

- A. A fire set to prevent or abate a fire hazard, when approved in advance by East Allen Township and set by or under the supervision of the East Allen Township Volunteer Fire Department and for which a permit has been issued by East Allen Township.
- B. Any fire set for the purpose of instructing personnel in firefighting, when approved in advance by East Allen Township and for which a permit has been issued by East Allen Township.
- C. A fire set for the prevention and control of disease or pests, when approved in advance by East Allen Township and for which a permit has been issued by East Allen Township.
- D. A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation, when approved in advance by East Allen Township and for which a permit has been issued by East Allen Township.

- E. A fire set for the purpose of burning nonrecyclable domestic refuse, 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 structure, when approved in advance by East Allen Township and for which a permit has been issued by East Allen Township.
- (1) Such a fire shall be located a minimum of 25 feet from any dwelling or structure.
 - (2) Such a fire shall be fueled only by Class A combustible material.
- F. A fire set solely for recreational or ceremonial purposes, when approved in advance by East Allen Township and for which a permit has been issued by East Allen Township.
- (1) Such a fire shall be fueled only by Class A combustible material.
 - (2) Such a fire shall be located a minimum of 25 feet from any dwelling or structure.
- G. A fire set solely for cooking food in:
- (1) Devices designed for that purpose, which must not be located within an enclosed structure or under a roofed structure; or
 - (2) Charcoal cooking units, which must not be located on balconies, decks or porches exceeding one story in height of multiunit buildings or apartment units, whether residential or mixed uses.

§ 76-6. Incorporation of other provisions by reference.

In addition to the prohibition of burning contained herein, the Air Pollution Control Act of the Commonwealth of Pennsylvania, P.L. 2119, 35 P.S. § 4001 et seq., as amended, and the provisions and conditions contained therein, as well as regulations of the Department of Environmental Protection of the Commonwealth of Pennsylvania, as they pertain to said Act at 25 Pa. Code § 129.14 et seq., as amended, are incorporated in this chapter as if the same were set forth herein at length.

§ 76-7. Permits; fees.

Permits required hereunder are to be applied for at the East Allen Township municipal offices on such application forms as required by East Allen Township, at a permit fee as determined from time to time by resolution of the Board of Supervisors. The Board of Supervisors, acting by resolution, shall have the authority to restrict the days and hours of any burning authorized under any permit.

§ 76-8. Red flag days.

No burning of any kind shall be allowed on those days on which the National Weather Service announces a "red flag" day, which are days when the danger of forest or grass fires is found to be high, regardless of whether a permit for burning has been issued. Holders of permits issued under this chapter are not permitted to engage in any burning on "red flag" days.

§ 76-9. Fire ban emergency.

The Chair of the Board of Supervisors or the Township Manager may declare a fire ban emergency in East Allen Township, with or without consultation with the East Allen Township Volunteer Fire Department and with or without consultation with the Board of Supervisors, during periods of drought, periods of high fire risk to woodlands or property within East Allen Township, or for reasons of the health, safety or welfare of residents of East Allen Township. Upon the declaration of a fire ban emergency, all outdoor

burning or fires shall be prohibited until the ban is lifted by vote of the Board of Supervisors or the Chair of the Board of Supervisors or the Township Manager.

§ 76-10. Notification to County of Northampton 911 Center before burning.

Holders of permits issued pursuant to this chapter are required to notify the County of Northampton 911 Center before the start of any burning authorized by such permit.

§ 76-11. Dawn-to-dusk restrictions.

Burning authorized by any permit issued pursuant to this chapter must result in complete extinguishment of fire and smoke generation before dusk. No fire and smoke generation is permitted before dawn.

§ 76-12. Violations and penalties.

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$100 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.