

## Chapter 92

### BURNING, OUTDOOR

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**[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton 10-18-1994 by Ord. No. 94-4; amended in its entirety 11-3-2011 by Ord. No. 2011-02. Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

Junkyards — See Ch. 120.

Nuisances — See Ch. 134.

Outdoor wood-fired boilers — See Ch. 137.

Parks and recreation areas — See Ch. 140.

Solid waste and recycling — See Ch. 170.

§ 92-1. Short title.

This chapter shall be known and may be cited as the "North Middleton Township Outdoor Burning Ordinance."

§ 92-2. Definitions.

The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different or contrary meaning:

**MATERIAL** — Material permitted to be burned outdoors will exclude all municipal waste materials and recyclable materials and solid waste as set forth in Chapter 170 of the North Middleton Township Code, which are required to be properly disposed of under local, state, and federal solid waste management and recycling regulations.

**PERSON** — Any natural person or persons, partnership, association, corporation, firm, fictitious name or any other individual or business entity or their agents.

**PROHIBITED MATERIALS** — All those items set forth in § 92-4A.

**RECREATIONAL/CEREMONIAL FIRES** — Any fire held on private property when contained in man-made brick or stone fire pits or other commercially made chimineas, fireplaces, fire rings, etc., which are customarily associated with outdoor living and patio areas and which are modest in size and are being utilized for the purposes of ceremony or recreation and not merely for burning or disposal of prohibited materials.

**SMOLDERING** — The same meaning as "burning," and any smoldering shall be deemed a burning.

**§ 92-3. Fires prohibited on public property; exceptions.**

No person shall set, cause to be set, maintain or permit to be maintained any fire of any kind, including the burning of any prohibited material, upon any of the streets, sidewalks, alleys, or public grounds in North Middleton Township, unless specifically authorized by the Board of Supervisors or its appointed agent, or, in the case of the municipal parks, in appliances designed for the preparation of food.

**§ 92-4. Restrictions on fires on private property.**

No person shall cause or permit to be caused any outdoor or open burning of any kind, including the burning of prohibited material, upon any private property owned or occupied in North Middleton Township, except under the following conditions:

- A. No outdoor or open burning of any materials, including but not limited to municipal waste material, recyclable material, or solid waste, as regulated by local, state, or federal solid waste management and recycling control procedures, hazardous waste materials or scrap lumber shall be permitted.
- B. No outdoor and open burning shall be permitted within 50 feet of any building, whether or not owned by any person setting the fire and whether or not occupied, nor within 40 feet of any property line, excepting only recreational/ceremonial fires and fires set solely for cooking.
- C. All burning must take place in fireplaces, noncombustible containers or incinerators, or appliances designed to prepare foods.
- D. All fires shall be maintained and kept under the supervision of an adult person actually at the scene of the fire at all times.
- E. All fires must be entirely extinguished and not permitted to burn or smolder.
- F. Exceptions. The requirements of Subsections C through E do not apply where the open burning operations do not create a nuisance or safety hazard as may be determined by Township official or Police Department and result from:
  - (1) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection (DEP), or other appropriate state or federal agency, 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 DEP or other appropriate state or federal agency.
  - (3) A fire set for the prevention and control of disease or pests, when approved by the DEP, or other appropriate state or federal agency.
  - (4) A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
  - (5) Recreational/ceremonial fires subject to the conditions contained herein.
  - (6) A fire set solely for cooking food subject to the other restrictions contained herein.

- (7) A fire set in order to clear land, provided that the proper authorities are notified of the controlled burn.
  - (8) Any fire allowed pursuant to Chapter 137, Outdoor Wood-Fired Boilers, as set forth within this Code.
- G. All burning that pertains to Subsection F(1) through (5) and (7) of this section, the person or persons responsible for the burning shall contact the Township Zoning Officer and county control prior to the start of the burning. The person or persons responsible for the burning shall state the date and time of the start of the burning and the projected length of the time of the burning period.

#### **§ 92-5. Temporary restrictions.**

The Board of Supervisors, by resolution, when it is deemed to be in the interest of public health and safety, may impose a temporary partial or full ban on burning, including but not limited to the following: open burning, burning in receptacles, campfires, charcoal grilles, exterior fireplaces, agricultural purposes and for the purpose of clearing land. Such a ban shall be reviewed from time to time and lifted when the condition(s) resulting in the imposing of the ban no longer exist. In addition, the Board of Supervisors, by resolution, may delegate to the Township Fire Chief or to the Township Manager the authority to impose a temporary partial or full ban on burning, as well as the lifting thereof, based upon the criteria and under the circumstances set forth herein. The imposition by the Township Fire Chief or Township Manager of a partial or full ban on burning, as well as the lifting thereof, is to be ratified and confirmed by the Board of Supervisors, by resolution, at the next regularly scheduled meeting of the Board of Supervisors following the action taken by the Township Fire Marshal or Township Manager.

#### **§ 92-6. Violations and penalties. <sup>1</sup>**

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 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.

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

