

## Chapter 37. BURNING, OPEN

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**[HISTORY: Adopted by the Board of Supervisors of the Township of Chestnuthill 10-16-2012 by Ord. No. 2012-03. Editor's Note: This chapter also repealed former Ch. 37, Burning, Outdoor, adopted 10-1-1975 by Ord. No. 46, as amended. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Building construction and flood damage prevention — See Ch. 37.  
Solid waste and recycling — See Ch. 90.

#### **§ 37-1. Short title.**

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

#### **§ 37-2. Definitions.**

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

##### **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.

##### **COMMERCIAL**

Of or pertaining to any wholesale, retail, industrial, manufacturing, transportation, or financial or professional service or office enterprise, business, or establishment.

##### **GARBAGE**

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

##### **INSTITUTIONAL**

Any establishment engaged in service to persons, including, but not limited to, hospitals, nursing homes, orphanages, schools, universities, churches, and social or fraternal societies and organizations.

**MUNICIPAL WASTE**

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid, or contained gaseous material, resulting from the operation of residential, municipal, commercial, or institutional establishments and from community activities, and any sludge not meeting the definition of "residual or hazardous waste" as defined in the Pennsylvania Solid Waste Management Act *Editor's Note: See 35 P.S. § 6018.101 et seq.* from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

**OPEN BURNING**

A fire in which any solid waste is burned in the open or in a receptacle other than a furnace or an incinerator permitted by the Pennsylvania Department of Environmental Protection.

**PERSON**

Any individual, 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.

**RECYCLABLES**

Materials designated as recyclable in Chapter 90, Solid Waste and Recycling, or required by the terms of that chapter, any amendment thereto or designated by resolution of the Township to be kept separate from municipal waste and recycled, including leaf waste.

**RESIDENTIAL**

Any dwelling unit used as a place of human habitation and which is not commercial, municipal, institutional, or a community activity. Home occupations incidental to be residential use within a building are considered residential.

**RESPONSIBLE PERSON**

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.

**RUBBISH**

Solid waste exclusive of garbage (e.g., nonrecyclable glass, metal, paper or plastic) and noncompostable plant material, wood or nonputrescible solid waste.

**SOLID WASTE**

Waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

**YARD WASTE**

Leaves, grass clippings, garden residue, tree trimmings, chipped wood waste, and other vegetative material.

**§ 37-3. General restrictions and conditions.**

Fires that are permitted by this chapter shall be subject to the following conditions:

**A.** Fires shall be permitted only when conditions are not such that there is an undue chance of conflagration or wildfire due mainly, but not limited to, extremely dry conditions as determined by the Board of Supervisors with consultation of the Chestnuthill Township Fire Chief and Fire Marshal. No burning of any kind shall be permitted during burning bans when officially enacted by the Township.

**B.** Fires shall not be permitted within 100 feet of any structure or within 50 feet of other combustible materials or areas not intended to be burned. A fire set solely for cooking food or for warmth, fellowship, recreational or ceremonial purposes such as a campfire shall be exempt from this provision, provided that it is contained, located so that other combustible materials cannot be ignited and a means of extinguishment is readily available;

**C.** All fires shall be attended by a responsible person at all times until completely extinguished;

**D.** Means to extinguish the fire, including but not limited to an adequate supply of water or other extinguishing agent or heavy equipment such as a backhoe or bulldozer, shall be readily available at all times while the fire is burning;

**E.** Fires shall not be permitted to spread beyond the original location or beyond property lines;

**F.** Fires shall not be permitted to be ignited if wind speeds exceed five miles per hour. If wind speeds increase to exceed five miles per hour after a fire has been ignited, it shall promptly be extinguished until wind conditions are more favorable;

**G.** Fires shall not be permitted within 50 feet of adjoining property lines;

**H.** No fire shall be permitted to burn in such a manner that produces smoke so as to interfere with the reasonable use of adjoining premises;

**I.** No person shall burn, ignite, incinerate, maintain or otherwise permit any fire upon any of the streets, roads, alleys and/or public rights-of-way in Chestnuthill Township.

**§ 37-4. Prohibited materials.**

Municipal waste, garbage, rubbish and recyclable materials, including but not limited to the following, are prohibited from open burning at all times:

**A.** Plastic products of any kind;

**B.** Building materials, either new or used, including but not limited to wood and lumber, treated wood and lumber, roofing shingles, tar paper, insulation of any kind, vinyl or composite siding, synthetic and composite decking and lumber, flooring materials of any kind, plastic or Tyvek-type house wrap, PVC or other plastic-type pipe, rubber products, paint and stain, carpet and carpet padding, glues and adhesives, and any materials used to package or otherwise contain any of the aforementioned materials;

**C.** Furniture and mattresses;

**D.** Tires;

**E.** Flammable and combustible liquids, motor oil, waste oil or any other liquid fuels capable of being burned unless used in a furnace or stove designed to burn such liquids by the manufacturer;

- F.** Newspapers, magazines, cardboard or other recyclable paper products;
- G.** Leaves, trimmings, twigs, branches and similar yard waste unless in the case of twigs and branches used for campfires or cooking fires, grills, outdoor fireplaces, chimineas or similar devices;
- H.** Any other material able to be recycled at the Chestnuthill Township Recycling Center at the time of adoption of this chapter or in the future.

**§ 37-5. Exceptions.**

The following types of fires shall be permitted by this chapter, provided that the applicable requirements of the preceding sections are met:

- A.** A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection's Regional Air Quality Program office and set by or under the supervision of a public officer.
- B.** Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- C.** A fire set for the prevention and control of disease or pests, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- D.** A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
- E.** A fire set solely for cooking food or for warmth, fellowship, recreational or ceremonial purposes such as a campfire, grill, outdoor fireplace, chiminea or similar device, provided that the fire is set with charcoal, natural wood and wood products only.
- F.** A bonfire, provided that the fire is set with natural wood and wood products only.

**§ 37-6. Enforcement responsibility.**

The Chestnuthill Township Zoning Officer, the Chestnuthill Township Fire Marshal and the Chestnuthill Township Fire Chiefs shall serve as the Enforcement Officers and shall be responsible for enforcing the terms of this chapter.

**§ 37-7. Violations and penalties.**

This chapter shall be enforced by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorneys fees incurred by Chestnuthill Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Each section of this chapter that is violated shall also constitute a separate violation. Further, the appropriate officers or agents of Chestnuthill Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this chapter. All

fines, penalties, costs and reasonable attorneys fees collected for the violation of this chapter shall be paid to Chestnuthill Township for its general use.

**§ 37-8. Citations.**

The Chestnuthill Township Zoning Officer, the Chestnuthill Township Fire Marshal and the Chestnuthill Township Fire Chiefs are hereby authorized to issue citations for the violation of this chapter.

**§ 37-9. Additional costs.**

**A.** In the case of a fire requiring firefighters and/or equipment and upon conviction of any violation of this chapter, the violator shall also pay charges in order to cover the fire-fighting costs. Charges shall be assessed for use of the following fire-fighting equipment:

**(1)** Pumpers and tankers.

**(2)** Brush busters. Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least 100 gallons capacity and an appropriately sized pump.

**(3)** Chain saws.

**B.** Additional labor charges shall be assessed under this chapter based upon an hourly rate for all firemen engaged in the fire-fighting activities.

**C.** The Board of Supervisors shall determine by resolution a reasonable schedule of costs based upon mileage, operating costs and fire-fighting equipment and staff hours. These charges shall be in addition to and not in lieu of any penalties provided elsewhere by this chapter.

**§ 37-10. Limited liability.**

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