

**SUMMIT TOWNSHIP  
ERIE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2025-01  
OPEN BURNING ORDINANCE**

**An Ordinance of Summit Township replacing the entirety of Ordinance No. 1992-09, “an Ordinance regulating open burning”; providing for the regulation of open burning and open fires within Summit Township; providing for enforcement, and penalties for violation; and providing for severability, a repealer, and an effective date.**

**BE IT ENACTED AND ORDAINED** by the Summit Township Board of Supervisors, Erie County, Pennsylvania, as follows:

**Section 1. Short Title**

This ordinance shall be known as the "Open Burning Ordinance".

**Section 2. Purpose**

It is the intent and purpose of this Ordinance to promote the public health, safety, and welfare, and to eliminate public dangers associated with open burning, consistent with the Pennsylvania Air Pollution Control Act, as amended, 35 P.S. § 4012(a), and the Second-Class Township Code, 53 P.S. §§ 66506, 66527, 66801.

The Board of Supervisors has determined that the existing Ordinance Regulating Open Burning, which was enacted into law on December 21, 1992, is outdated and should be updated, consistent with current needs of the community and changes in the laws of the Commonwealth of Pennsylvania.

Nothing in this Ordinance is intended to permit activities that are otherwise prohibited or regulated by federal, state, or county authority. Wherever this Ordinance and another law or regulation conflict, the stricter of the two shall prevail.

**Section 3. Definitions**

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

- **Attended**: Human presence is maintained from the time a fire is ignited until the time it is fully extinguished by a person responsible to prevent the spread of the fire or hazardous conditions
- **Bonfire**: Open Fire burning only untreated Wood and Wood Products exceeding an area of three feet (3') in diameter and two feet (2') in height.

- Recreational Fire: Open Fire burning only Wood and Wood Products used for warmth, fellowship, food preparation, or ceremonial purposes.
- Fire Official/Code Enforcement Officer: any person or authority designated by the Township Board of Supervisors to enforce this Ordinance
- Leaf Waste: as defined in Act 101 of 1998, the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (“Act 101”), as may be amended and in effect at the time of an Open Burning subject to this Ordinance.<sup>1</sup>
- Municipal Waste: as defined in the Summit Township Municipal Solid Waste Ordinance, as amended and in effect at the time of an Open Burning subject to this Ordinance.<sup>2</sup>
- Open Burning: any fire which is burned outside of an enclosed structure or building
- Open Fire: any fire from which the properties of combustion are emitted from a fire source directly into the air without first passing through a structural stack or chimney
- Person: any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency, or other entity recognized by law as the subject of rights and duties
- Recyclables: as defined in the Summit Township Municipal Solid Waste Ordinance, as amended and in effect at the time of an Open Burning subject to this Ordinance.<sup>3</sup>
- Right of Way: the total width of any land reserved or dedicated for the use of vehicle or pedestrian traffic (such as, but not limited to, roads and sidewalks) by the public in general or the residents in a land development or subdivision
- Contained Small Open Fire: Open Fire burning only Wood and Wood Products that is entirely contained within a fire pit, fire ring, or other such device no larger than sixteen (16) square feet and no less than eighteen (18) inches deep (as measured from

---

1 As of the effective date of this Ordinance, Act 101 defined Leaf Waste as “leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.”

2 As of the effective date of this Ordinance, the Summit Township Municipal Solid Waste Ordinance defined Municipal Waste as “any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act 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 material.”

3 As of the effective date of this Ordinance, the Summit Township Municipal Solid Waste Ordinance defined Recyclables as “for residential properties, this shall include mixed waste paper, including office paper, junk mail and envelopes, corrugated and cardboard materials, newspapers, magazines, bi-metal and aluminum cans and lids, clean aluminum foil and foil products, Clear Glass and Colored Glass and plastics #1 through 6. For Commercial, Industrial, Institutional Recyclables shall include corrugated cardboard, high-grade office paper and aluminum and bi metal cans, plastic and glass bottles, jugs and jars. For Community Activities Recyclables shall include aluminum cans and corrugated cardboard.”

the bottom of the pit to the top of any surrounding perimeter stones or other non-combustible containment device), or in a metal receptacle no larger than a fifty-five (55) gallon drum

- Township: Summit Township, Erie County, Commonwealth of Pennsylvania
- Wood and Wood Products: trunks of trees and limbs of trees exceeding four inches (4") in diameter, and all products of, or made from, untreated wood (including small, dry twigs used as kindling)

#### **Section 4. Exceptions**

(A) Temporary Burn Bans. When deemed necessary, the Board of Supervisors, the County Executive, the State Official or a Fire Official may impose temporary bans on all outdoor burning or fires, which bans shall operate to prohibit fires and burning otherwise authorized by this Ordinance.

(B) Charcoal or Gas Grills. Except for provisions relating to Temporary Burn Bans, the use of charcoal or gas grills manufactured for residential use and used in conformity with the manufacturer's instructions is not subject to the regulations set forth in this Ordinance.

(C) Patio Devices. Except for provisions relating to Temporary Burn Bans, the use on a deck or patio chiminea, patio heater, patio fire table, or similar manufactured device as designed and recommended for such use by the manufacturer is not subject to the regulations set forth in this Ordinance.

(D) Official Purposes. Nothing in this Ordinance shall limit fires set in the performance of public duty by a fireman or public official for official purposes.

#### **Section 5. Authorized Fires – No Permit Required**

Subject to the regulations listed below, an adult property owner may, without a permit, authorize and allow on his or her property the following Open Burning:

(A) Contained Small Open Fires.

1. Contained Small Open Fires shall be covered by a screen or wire mesh to prevent sparks from flying while burning.
2. No Contained Small Open Fire shall be located less than ten (10) feet from a house, structure, Right of Way, utility, tree, or other combustible materials.
3. No Contained Small Open Fire shall produce flames greater than three feet (3') in height above the fire pit or other containment device or receptacle.
4. No contained Small Open Fire shall produce excessive smoke or malodorous emissions. Smoke shall be considered excessive if it extends beyond the property line of the source of the fire.

(B) Contained Recreational Fires.

1. No recreational fire contained shall be more than three feet (3') in diameter or produce flames greater than two feet (2') in height.

(C) Burning of Fields for Weed or Brush Control for Farm Purposes.

1. The person desiring to burn a field for weed or brush control shall first notify the fire department that serves the area in which the fire is to occur.
2. The fire shall be Attended by a person having sufficient fire suppression equipment and personnel present to maintain control of the fire.
3. No such fires shall be conducted before the hour of 7:00 a.m. and must be completely extinguished by 6:00 p.m., except that the time to extinguish such fire is extended to 8:00 p.m. from March 15 to October 15.

**Section 6. Authorized Fires – Permit Required**

(A) Subject to the regulations listed below, an adult property owner may allow on his or her property the following Open Burning, with a duly issued permit:

1. Open Burning to Clear Land. With the application for the burn permit, a person intending to conduct an uncontained open burning to clear land shall include the location of the clearing project, the size of the area to be cleared, the type of air curtain destructor to be employed, a description of the type and amount of material to be burned, the expected duration of the burning, the anticipated method of residue disposal, and the name of the person(s) who will Attend the fire.
2. Bonfires. An uncontained bonfire may not be conducted within seventy-five feet (75') of any building or structure or within fifty feet (50') of any property line, except upon written permission from all adjacent property owners.
3. Notice must be given to Erie County Non-Emergency 911 and the Fire Chief of the volunteer fire Department of the Township at least one (1) hour in advance of any such burn.
4. In the event that any fire company is required to respond to a fire which violates the provisions of this Ordinance, a service fee may be levied by the responding Fire Company for any costs associated with their response.
5. Any Other Fire Not Prohibited by This Ordinance or Authorized in Section 5 of This Ordinance. No permits shall be issued for any Open Burning of Leaf Waste, Municipal Waste, or Recyclables.

(B) Permit Procedure.

1. Application for a burn permit shall be made on the form provided by the Township.

2. Any Township Official or Township Supervisor may request additional information be submitted with the application or at any time prior to the issuance of the permit.
3. The Township may impose on any permit such conditions as it deems appropriate for the control of air pollution and for the protection of buildings, housing, property, and the well-being of its citizens.

### **Section 7. Authorization to Order and Unattended Outdoor Fires**

The Code Enforcement Officer, Fire Official, Zoning Administrator, or other duly authorized law enforcement officer may, upon investigation and within their sole discretion, order that any Open Burning be immediately extinguished, abated, or corrected if, in the officer's sole judgment the fire violates any of the provisions of this Ordinance or otherwise poses an immediate threat to the safety of persons or property.

No outdoor fire shall be allowed to burn without a responsible person being present at all times and without a readily available fire-extinguishing apparatus, such as a water hose.

If a fire is not attended, or if the person attending the fire refuses to comply with the officer's directives pursuant to this Section, the officer may take reasonable measures to extinguish any burning material.

### **Section 8. Prohibited Acts**

It shall be unlawful to commit any of the following acts, or for a landowner knowingly to allow any of the following acts to be committed on his or her property:

- (A) To ignite or feed any Open Burning in the Township except as authorized by this Ordinance;
- (B) To conduct any Open Burning of Leaf Waste, Municipal Waste, or Recyclables;
- (C) To conduct any Open Burning in a Right of Way;
- (D) To conduct any Open Burning during a Temporary Burn Ban pursuant to Section 4(A) of this Ordinance.
- (E) To produce excessive smoke or malodorous emissions from Open Burning. Smoke shall be considered excessive if it extends beyond the property line of the source of the fire.
- (F) To refuse to follow a lawful order to extinguish, abate, or correct an Open Burning pursuant to Section 7 of this Ordinance.

### **Section 9. Penalties**

(A) Any person violating the provisions of Section 8 of this Ordinance shall, upon conviction thereof before a District Justice in a summary proceeding, be sentenced to pay a fine of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) together with court costs and attorney's fees.

(B) Each day upon which a violation occurs or continues shall constitute a separate offense.

(C) Proof that the defendant in any enforcement action under this Section owns or controls the property on which Open Burning occurs shall be prima facie evidence that such person has conducted or knowingly allowed such Open Burning.

**Section 10. Repealer**

Any ordinance, chapter, section, subsection, paragraph, sentence or phrase of any ordinance conflicting with the provisions of this ordinance, including Ordinance No. 1992-09 in its entirety, shall and the same is hereby repealed to the extent of such conflict.

**Section 11. Severability**

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

**Section 12. Effective Date**

This Ordinance shall become effective five (5) days after final passage and approval by the Board of Supervisors.

**BE IT ORDAINED AND ENACTED** this 18<sup>th</sup> day of February 2025.

**SUMMIT TOWNSHIP SUPERVISORS**

\_\_\_\_\_  
Anthony W. Davis, Supervisor

\_\_\_\_\_  
Jack F. Lee, Jr., Supervisor

\_\_\_\_\_  
Mark A. Welka, Supervisor

ATTEST

\_\_\_\_\_  
Lisa A. Vallimont, Secretary