

## **Chapter 101**

### **OPEN FIRES**

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**[HISTORY: Adopted by the BOROUGH Council as Ord. No. 1055.  
Amendments noted where applicable.]**

- § 101.1. Definitions:**
  - 101.1.1. Adult - a natural person who has attained the age of 18 years.
  - 101.1.2. Bonfire - An outdoor fire used for ceremonial purposes that is larger than a Recreational Fire.
  - 101.1.3. Combustible Material - Any material that can catch fire and burn. The term shall include, but is not limited to, Dwellings, structures, inhabited areas, roadways, utilities and trees.

101.1.4. Dwelling - A building that contains one or two Dwelling Units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

101.1.5. Dwelling Unit - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

101.1.6. Lot Line - A line dividing one lot from another or from a street or any public place.

101.1.7. Open Burning - The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. This term does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open flames, Recreational Fires or use of Portable Outdoor Fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

101.1.8. Open Flames - The term shall mean candles, non-electric lanterns, kerosene heaters and gas fired heaters and other similar devices.

101.1.9. Open Flame Cooking Device - non-commercial charcoal burners and other open-flame cooking devices fueled by combustible or flammable gases, liquids, and solids, including propane fueled grills. This term shall include items commonly known as charcoal grills, gas grills, food smokers and any similar fuel burning, portable device used for preparing food. The term shall include outdoor, propane-fueled, open flame deep fryers, known as turkey fryers and other similar devices.

101.1.10. Outdoor Fireplace - An outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other non-combustible material. An outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

101.1.11. Portable Outdoor Fireplace - A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other non-combustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. The term includes such items as patio chimineas, patio heaters or other manufactured above-ground patio fire pits, patio fire tables or similar containment device.

101.1.12. Recreational Fire - An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. The term includes non-combustible fire rings, 55 gallon drums or other similar non-combustible devices or dug out fire pits encircled by a stone perimeter.

101.1.13. Townhouse - A single-family Dwelling Unit constructed in a group of three or more attached Dwelling Units in which each unit extends from foundation to roof and with a yard or public way on at least two sides. A Townhouse is not a one- or two-family Dwelling.

**§ 101.2. General Prohibition Against Open Burning:**

No person, corporation, partnership, association, organization or other group whatsoever (hereinafter collectively referred to as "Property Owner" or "Person") shall conduct or allow an Open Burning of any kind in the Borough, except as authorized by this Chapter or as authorized pursuant to a valid permit issued by Allegheny County pursuant to a County Ordinance or Regulation.

**§ 101.3. Permitted Fires:**

Subject to the rules, regulations and limitations contained in this Chapter, an Adult property owner may authorize and allow the following types of permitted fires ("Permitted Fires") on his or her property:

101.3.1. Open Flames;

101.3.2. Open Flame Cooking Devices;

101.3.3. Outdoor Fireplaces;

101.3.4. Portable Outdoor Fireplaces;

101.3.5. Recreational Fires contained in fire pits surrounded by a stone perimeter that are 3 feet or less in diameter and no less than 18 inches deep, as measured from the base of the pit to the top of the pit or to the top of any surrounding perimeter stones;

101.3.6. Recreational Fires contained in non-combustible fire rings, 55 gallon drums or other similar non-combustible containment devices that are 3 feet or less in diameter and no less than 12 inches deep, as measured from the base of the Recreational Fire to the top of the non-combustible containment device; and

101.3.7. Bonfires are only permitted upon obtaining a permit, including instructions and stipulations contained therein, from the

Borough's fire code official, the designated authority or authorized representative charged with the administration and enforcement of the 2009 International Fire Code.

**§ 101.4. Authorized Locations:**

101.4.1. Bonfires, if authorized by a permit, shall not be conducted within 50 feet of a structure, Combustible Material or Lot Line.

101.4.2. Outdoor Fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure, Combustible Material or Lot Line.

101.4.3. Open Flames shall not be located on or near decorative material or similar Combustible Materials.

101.4.4. Open Flame Cooking devices, including, but not limited to charcoal and gas grills, shall not be operated on combustible balconies or within 10 feet of Combustible Materials or Lot Lines.

101.4.4.1. Exception: The above restrictions do not apply to Open Flame Cooking Devices: a) used at one- and two-family Dwellings or Townhouses; b) used at buildings, balconies and decks are protected by an automatic sprinkler system; or c) that are Liquid Petroleum ("LP")-gas cooking devices having a LP-gas container with a water capacity not greater than 2 ½ pounds [nominal 1 pound LP-gas capacity], provided they are used in accordance with the manufacturer's instructions..

101.4.4.2. The above-exception shall not apply to outdoor, propane-fueled, open flame deep fryers, such as turkey fryers and other similar devices. Such deep fryers must be used in accordance with the manufacturer's instructions and, at a minimum, shall not be operated on any balconies or within 15 feet of any structure or combustible material.

101.4.5. Permitted Recreational Fires shall not be conducted within 25 feet of a structure, Combustible Material or Lot Line. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.

101.4.6. Portable Outdoor Fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure, Combustible Material or Lot Line.

101.4.6.1. Exception: The above restrictions do not apply to Portable Outdoor Fireplaces used at one- and two-family Dwellings provided they are used in accordance with the manufacturer's instructions and are positioned at least 5 feet from a neighboring Lot Line.

**§ 101.5. Materials:**

101.5.1. Permitted Fires shall be conducted using appropriate materials only. Open Flame Cooking devices shall be used in accordance with the manufacturer's instructions (e.g., charcoal or propane gas). Recreational Fires, Portable Outdoor Fireplaces and Outdoor Fireplaces shall be conducted using only charcoal or dry, clean logs, twigs or other wood products.

101.5.2. No painted or chemically treated woods, plastics, cardboard boxes, paper, household wastes, toxic or noxious materials, cloth, leaves, green yard waste or other materials that tend to cause excessive or malodorous emissions or excessive smoke may be used to start or maintain any fire.

**§ 101.6. Time:**

All Permitted Fires authorized by this Chapter are prohibited between the hours of 1:00 a.m. and 7:00 a.m.

**§ 101.7. Prohibition Against Excessive Smoke, Odors or Malodorous Emissions:**

No persons shall allow or maintain a fire which creates excessive smoke, excessive odor or malodorous emissions. Any Police Officer, Code Enforcement Officer or other duly authorized law enforcement officer of the Borough of Whitehall or any Fire Company Officer ("Officer") may, upon investigation, make a determination, in his or her sole judgment, that the Permitted Fire is emitting excessive smoke, excessive odor, or malodorous emissions.

**§ 101.8. Adult Supervision, Control, Extinguishment:**

101.8.1. Only an Adult property owner or other Adult authorized by the Adult property owner shall authorize or conduct a Permitted Fire. The Adult property owner or other Adult authorized by the Adult property owner to conduct such a fire shall at all times be present at and shall tend to the fire from the time it is lit through the time of total extinguishment.

101.8.2. A minimum of one portable fire extinguisher complying with Section 906 of the 2009 International Fire Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate action. Suitable covering or means of disposal of ashes shall be provided to prevent them from becoming airborne.

101.8.3. The Adult property owner or other authorized person supervising the fire shall be responsible to assure that all aspects of the fire comply with this Chapter and shall assure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or non-compliant fire or burning, the Adult property owner or other person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning.

101.8.4. Proof that the defendant in any enforcement action owns or controls the property on which open burning occurs shall be prima facie evidence that such person has conducted, or allowed to be conducted, such open burning.

**§ 101.9. Police Department, Fire Company and Code Enforcement Office Authorized to Order Immediate Extinguishment, Abatement or Correction of Fires:**

Any Officer may, upon investigation and in his or her sole discretion, order that any fire be immediately extinguished, abated, diminished or corrected if, in the Officer's sole judgment, the fire:

101.9.1. Is emitting excessive smoke, excessive odor, or malodorous emissions;

101.9.2. Contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;

101.9.3. Is in a prohibited location or is of a prohibited size;

101.9.4. Is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other Combustible Materials or to the safety of persons or property;

101.9.5. Has characteristics, including size, materials, containment, location and emissions such that continuation of the fire poses a risk of harm to persons or property;

101.9.6. Poses a risk of harm to persons or property because of weather conditions (including but not limited to wind, drought, dry or other conditions), conduct of the participants, proximity to structures, trees, other Combustible Materials, conduct of participants or other circumstances; or

101.9.7. Is otherwise prohibited by this Chapter.

**§ 101.10. Prohibited Acts:**

101.10.1. No person, firm or corporation shall permit, authorize, conduct, or participate in the burning of any Open Burning except in compliance with this Chapter.

101.10.2. No person, firm or corporation shall refuse to comply immediately and fully with any order of any Officer to contain, control, correct, or extinguish any fire or burning.

**§ 101.11. Penalties:**

Enforcement of this Chapter shall be by action brought before the magisterial district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, firm or corporation who shall violate any provision of this Chapter shall, upon conviction thereof be sentenced to pay a criminal fine of not more than one thousand dollars (\$1,000.00) per violation, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each violation of any provision of this Chapter shall constitute a separate offense. In addition, any person found guilty of violating this Chapter shall be assessed court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings.