

## CHAPTER 22 OPEN BURNING; COST RECOVERY

**Section 22.1 Purpose.** Unregulated open burning creates a risk to the health, safety and welfare of the residents of Courtland Township. Open burning is a fire risk which may create hazardous byproducts that can irritate eyes and lungs, obscure visibility, create odors and pose other health threats. Open burning may substantially increase the discomfort of residents who suffer from asthma, chronic bronchitis or other respiratory ailments. This Chapter is intended to reduce the adverse effects of unregulated open burning throughout the Township.

### **Section 22.2 Definitions.**

- A. "Yard Clippings" means leaves, grass clippings, vegetable or other garden debris, shrubbery, brush, wood, twigs or tree trimmings less than four feet in length and two inches in diameter.
- B. "Open Burning Permit" means permission to burn, in writing (including e-mail or text) by the Courtland Township Fire Chief or other authorized officer of the Courtland Township Fire Department.
- C. "Open Burning" means the burning of any flammable material that is not done within a structure or building. Open burning shall not include use of internal combustion engines, or the use of properly installed and maintained smokeless, odorless incinerators.

**Section 22.3 Open Burning.** The open burning within the Township of any material, if caused intentionally or with reckless disregard to the spread of fire, is hereby prohibited except as follows:

- A. Open burning of yard clippings may be conducted within Courtland Township provided the provisions of Section 22.4 of this Chapter are satisfied.
- B. The provisions of this Chapter shall not apply to fires approved by the fire chief for the purpose of training fire fighters.
- C. The provisions of this Chapter shall not apply to burning barrels used for the burning of residential waste so long as the barrel is constructed of metal or masonry and has a metal cover with holes no larger than 3/4 inch wide and so long as the burning complies with Section 22.4.F of this Chapter.
- D. The provisions of this Chapter shall not apply to agricultural burning, including the burning of brush, trees and crop fields, on farms when performed in accordance with generally accepted agricultural and management practices ("GAAMPS"). Similarly, this Chapter shall not apply to the open burning of beekeeping equipment and products, when burned for bee disease control.
- E. Open fires used solely for cooking for immediate human consumption, or for recreation or ceremonial purposes, shall not be prohibited if the following conditions are satisfied:

1. any fire in excess of three feet across shall require an Open Burning Permit;
2. such open fire shall not be composed in whole or substantial part of leaves or grass clippings; and
3. such open fire shall use non-processed wood and shall not burn garbage or any material described in Section 22.4.F of this Chapter.

**Section 22.4 Open Burning with Fire Department Permit.** The open burning of yard clippings may be conducted within the Township provided all of the following conditions are satisfied:

- A. an Open Burning Permit is obtained from the Township Fire Department (the "Fire Department");
- B. the open burning is conducted in accordance with all applicable state laws, including the Air Pollution Control Act (Act 348 of the Public Acts of 1965), the Forest Fire Act (Act 329 of 1969), and the Solid Waste Management Act (Act 641 of 1978; Act 267 of 1990);
- C. the open burning is performed under the constant supervision of a responsible person, who must be 18 years of age or older;
- D. open burning shall be permitted only during daylight hours;
- E. open burning shall not be permitted within thirty-five (35) feet of any building or other structure or within twenty-five (25) feet of any right-of-way line or property line, except the joint property line of adjacent properties jointly conducting burning operations under subpart G below. Open burning is prohibited in the traveled area or curb line or shoulder on any public roads or private roads;
- F. the burning of tires, plastics or any other materials that may result in noxious odors or other seriously offensive conditions is prohibited. It shall be a violation of this Chapter to burn any substance which emits in substantial concentration, smoke or gas which is toxic to plant or animal life, noxious or offensive in odor, or creates a lasting condition of thick smoke; and
- G. open burning shall be permitted only on the premises from which the yard clippings originated; provided, however, owners of adjacent lands may jointly conduct burning operations.

**Section 22.5 Consideration of Open Burning Permit.** The Fire Chief or designee may impose reasonable conditions prior to granting approval for an Open Burning Permit, including conditions relating to the time, location, duration, manner of burning, the type of material to be burned and the quantity of material to be burned. Before issuing a permit, the Fire Chief or designee shall take into consideration the physical characteristics of the land on which the fire is to be located, the weather conditions on the date of burning, the extent of possible air pollution, the number of permits already issued, the proximity of the proposed fire to any structure, and other factors which

may affect the health, safety and welfare of the people of the Township. The Fire Chief or designee may withdraw approval of a permit if open burning would be unsafe due to the particular circumstances of a request, including, but not limited to, unfavorable weather conditions.

**Section 22.6 Cost Recovery for Emergency Response.**

- A. The Township Board finds that a number of responses of the Township Fire Department involve persons who fail to burn in accordance with the conditions of an approved Open Burning Permit or who fail to obtain an Open Burning Permit as required by ordinance. These violations pose a substantial likelihood of personal or property damage and place a financial and operational burden on the Township's Fire Department. Accordingly, any person who burns without a valid Open Burning Permit or who burns in violation of conditions of approval of a valid Open Burning Permit shall be liable for all emergency response expenses if such person's activities cause an incident resulting in an emergency response. Liability for these expenses will also apply to a property owner who permits or consents to another's burning without a valid permit or in violation of conditions of approval of a valid Open Burning Permit on that owner's premises.
- B. The expense of an emergency response shall be a charge jointly and severally against the person commencing or continuing the open burning and the property owner unless the property owner proves that the fire was begun by a trespasser on the property. The charge shall constitute a lien against the property as well as a debt of that person or persons and is collectible by the Township in the same manner in which general property taxes may be collected, or, alternatively, in the same manner as in the case of an obligation under a contract.
- C. The expense of an emergency response shall include, though shall not be limited to, the amounts calculated as follows:
  - 1. \$125 per hour, or a fraction thereof, for each pumper required, in the opinion of the officer in command, to be used in responding to the emergency.
  - 2. \$125 per hour, or a fraction thereof, for each water tender required, in the opinion of the officer in command, to be used in responding to the emergency.
  - 3. \$125 per hour, or a fraction thereof, for any other Township owned Fire Department vehicle or other emergency vehicle required, in the opinion of the officer in command, to be used in responding to the emergency.
  - 4. All personnel-related costs incurred by the Township as a result of responding to the open burning incident. Such costs may include, but are not limited to, wages, salaries and fringe benefits and insurance for full-time and part-time fire fighters.
  - 5. Overtime pay and related fringe benefit costs for hourly employees and fire run fees paid to on call fire fighters. Such personnel-related charges shall

commence after the first hour that the department having jurisdiction has responded to an open burning incident, and shall continue until all fire fighting personnel have concluded open burning incident related responsibilities.

6. Other expenses incurred by the Township in responding to the open burning incidents, including but not limited to rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the open burning incident.
7. Charges to the Township imposed by any local, state or federal government entities related to the open burning incident.
8. Costs incurred in accounting for all open burning incident-related expenditures, including billing and collection costs.

*[Adopted 12/7/16; eff. 1/19/17]*