

**WHITEMARSH TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO.1039

AN ORDINANCE OF WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF WHITEMARSH TOWNSHIP TO ADD A NEW CHAPTER 78, "OPEN BURNING" AND TO PROHIBIT OPEN BURNING WITH EXCEPTIONS; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of Supervisors has enacted the Code of Ordinances of Whitemarsh Township; and

WHEREAS, the Township Fire Marshal has recommended that the Board of Supervisors enact legislation to prohibit open burning in Whitemarsh Township with certain exceptions; and

WHEREAS, the Board of Supervisors desires to accept the recommendation of the Township's Fire Marshal and has determined that prohibiting open burning in Whitemarsh Township, subject to certain exceptions, is in the best interests of the health, safety, and welfare of the residents of Whitemarsh Township and the general public;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of Whitemarsh Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

Section 1. The Code of Ordinances of Whitemarsh Township is amended to add a new Chapter 78 as follows:

Chapter 78 – Open Burning

Section 78-1 Open Burning Prohibited.

It shall be unlawful to burn, ignite, incinerate, maintain, or permit to burn any materials whatsoever, of whatever nature, including but not limited to solid waste, recyclable materials, leaves, grass, weeds, and hedge and tree trimmings.

Section 78-2 Exceptions.

- A. Burning shall be permitted for firefighting training by Township designated firefighting organizations conditioned on prior approval of the Whitemarsh Township Fire Marshal or his or her designee.

B. Burning shall be permitted for recreational and entertainment purposes, such as bonfires and campfires, conditioned on prior approval of the Whitemarsh Township Fire Marshal or his or her designee. A Special Event Permit is needed for these type of events along with the need for fire department stand-by.

C. Fire pits, fire bowls, and chimineas may be used without Fire Marshal approval provided these are used in accordance with the manufacturer's safety guidelines and the following regulations:

- (1) Yard debris and trash shall not be burned, including leaves.
- (2) Open burning is prohibited when the following weather-related hazards are present:
 - (a) If sustained winds are 10 m.p.h. or greater; or gusts are 20 m.p.h. or greater.
 - (b) A burn ban has been put in place by PA Department of Conservation & Natural Resources.
 - (c) A "Red Flag" day declared by the National Weather Service.
- (3) The Fire Marshal, fire officers, and police officers can order any open burn extinguished if they deem it unsafe or a nuisance.
- (4) Open burning shall be 50 feet from structures and combustibles with the following exceptions:
 - (a) Open burning with a burn pile 3 feet or less in diameter and 2 feet or less in height can be 25 feet from structures and combustibles.
 - (b) Open burning in approved containers, such as listed manufactured fire pits from home improvement stores, can be 15 feet from structures and combustibles.
 - (c) Burn barrels or other homemade containers are NOT allowed.
- (5) All open burning must constantly be attended by an adult and have a means to extinguish it, such as a garden hose, bucket of water, loose sand/dirt, or an adequately sized fire extinguisher.

D. When approved by a government agency only, burning is permitted for:

- (1) The prevention and control of disease or pests
- (2) The conservation and management of unique and natural areas
- (3) The prevention or abatement of a fire hazard
- (4) The management technique for preventing wildfires
- (5) For scientific research, or vegetation management
- (6) For agricultural uses and purposes as permitted by state law.

Section 2. The Whitemarsh Township Fire Marshal or his or her designee, and the Whitemarsh Township Police Department are authorized to enforce the provisions of this Ordinance.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

Section 4. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance and the Code of Ordinances of Whitemarsh Township shall continue to be separately and fully effective.

Section 5. This Ordinance shall be effective at the earliest possible date permitted by the provisions of the Whitemarsh Township Charter.

ORDAINED and ENACTED this 13th day of June, 2024.

ATTEST



Craig McAnally, Secretary

**WHITEMARSH TOWNSHIP
BOARD OF SUPERVISORS**



Fran McCusker, Chair