

**BEFORE THE BOARD OF COMMISSIONERS OF  
THE TOWNSHIP OF WHITEHALL**

**ORDINANCE NO. 3104**

**BILL NO. 1-2018**

**AN ORDINANCE LIMITING OPEN BURNING IN THE TOWNSHIP; PROVIDING FOR THE SEVERABILITY OF PARTS OF THIS ORDINANCE DEEMED TO BE INVALID; REPEALING ORDINANCES, RESOLUTIONS, OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE. (FIRE)**

**WHEREAS**, the Township of Whitehall (the "Township") is a township organized and operating under the laws of the Commonwealth of Pennsylvania and the Home Rule Charter of the Township; and

**WHEREAS**, the Board of Commissioners of the Township may, under the general authority of the Home Rule Charter, enact regulations to ensure the health, safety, and general welfare of the citizens of the Township; and

**WHEREAS**, the Board of Commissioners of the Township has determined that air pollution and dangers associated with open burning may be detrimental to the health, comfort, living conditions, welfare, and safety of the citizens of the Township; and

**WHEREAS**, the Board of Commissioners of the Township has determined that the health, safety, and general welfare of the citizens of the Township will be promoted and served by enacting this Ordinance.

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED** by the Board of Commissioners of Whitehall Township, Lehigh County, Pennsylvania as follows:

**ARTICLE I            Title**

This chapter shall be known as the "Burning Ordinance."

**ARTICLE II            Definitions**

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

- a. Garbage. All putrescible animal and vegetable matter resulting from the handling, preparation, cooking, and consumption of food.
- b. Open fire. All fires kindled or maintained outside of a building and shall include all fires maintained in containers, enclosures, barrels, or devices commonly known as "burn barrels" or "fire pits." Open fires also include brush fires or field fires which are not confined by any type of container or enclosure.
- c. Outdoor preparation of food. Those fires which are kindled or maintained for the sole purpose of food preparation, which use charcoal, natural gas, or liquefied petroleum gas as a fuel or heat source.
- d. Person. Includes persons, partnerships, corporations, and other business entities.

**BILL NO. 1-2018/ORDINANCE NO. 3104**

e. Rubbish. Solids not considered to be highly flammable or explosive including, but not limited to, rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, crockery, masonry, and other similar materials.

f. Trade waste. All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry including, but not limited to, plastic products, cartons, paint, grease, oil, and other petroleum products, chemicals, cinders, and other waste forms of solid or liquid waste materials; provided, however, that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

**ARTICLE III            Limitation on burning**

No person shall kindle or maintain any bonfire or fire which burns garbage, rubbish, or trade waste or authorize any such fire to be kindled or maintained on or in any public street, alley, road, or other public ground, or on private property. This limitation shall include any and all open fires and other outdoor fires which are kindled or maintained in containers, enclosures, barrels, incinerators, or devices commonly known as "burn barrels" or "fire pits."

**ARTICLE IV            Exceptions**

The provisions of this Chapter shall not apply to the following:

- A. A fire set solely for the outdoor preparation of food;
- B. A fire relating to indoor heating appliances such as fireplaces, wood, and coal stoves;
- C. A fire set solely for recreational purposes from an outdoor heating device using propane, and no other source, with a flame no more than eighteen (18) inches in height; or
- D. Industrial or commercial incinerators which have been issued valid air quality and operating permits by the Pennsylvania Department of Environmental Protection.

**ARTICLE V            Violations and penalties**

Any person violating the provisions of this article, upon conviction thereof, shall be sentenced to pay a fine of up to One Thousand Dollars (\$1,000.00) for each offense and the cost of prosecution and, in the event of default of payment of each fine and cost, shall be subject to imprisonment for not more than ninety (90) days. Each day that a violation of this article continues shall constitute a separate offense. Any person found guilty of violating this article shall be assessed court costs and reasonable attorneys' fees incurred by the Township in the enforcement proceedings.

**ARTICLE VI            Severability**

If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Commissioners of Whitehall Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**BILL NO. 1-2018/ORDINANCE NO. 3104**

**ARTICLE VII Repealer**

All ordinances, resolutions, or parts thereof which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**ARTICLE VIII Effective Date**

This Ordinance shall become effective five (5) days after enactment by the Board of Commissioners and approval by the Mayor.

**DULY ORDAINED AND ENACTED** this 12<sup>th</sup> day of February 2018 at a regular public meeting in lawful session duly assembled.

**BOARD OF COMMISSIONERS  
TOWNSHIP OF WHITEHALL**

BY: *Dennis C. Hower*  
Dennis C. Hower, President

2/12/18  
Date

ATTEST:

*Thomas Slonaker*  
Thomas Slonaker, Secretary

AND NOW, to wit, this 15<sup>th</sup> day of February 2018, the above is approved.

*Edward D. Hozza, Jr.*  
Edward D. Hozza, Jr., Mayor