

**CHAPTER 7**

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## CHAPTER 7

### FIRE PREVENTION AND FIRE PROTECTION

#### Part 1

#### Open Burning

**§101. Title.** This Part shall be known and cited as the Buffalo Township, Union County, Pennsylvania Air Pollution Control Ordinance.

**§102. Policy.** The Board of Supervisors of Buffalo Township, Union County, Pennsylvania, has determined that unregulated open burning may be a threat to the health, safety and welfare of the residents of Buffalo Township, Union County, Pennsylvania, and that it is in the best interests of the residents of the Township that certain regulations be established with regard to open burning.

**§103. Definitions.** The following words, terms, and phrases, when used in this Part, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

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.

BOARD – Buffalo Township, Union County, Pennsylvania, Board of Supervisors.

OPEN FIRE – A fire in which any material is burned other than in a furnace, fire place, stove, incinerator or similar device, which is situate in a fully enclosed building or structure.

FURNACE – Any enclosed device specifically designed for the burning of any material for the production of heat.

INCINERATOR – Any device specifically designed for the destruction by burning of refuse, waste, sewage sludge or any other combustible material.

RECREATIONAL OPEN FIRE – Any fire that is used for the sole purpose of outdoor cooking, by using wood, wood products, charcoal or bottled gas as a source of heat for cooking.

**§104. Regulations.**

(1) Hereafter, any person may, within the areas of Buffalo Township, Union County, Pennsylvania, now or hereafter designated as the Village, Commercial Manufacturing and Urban Fringe Zoning Districts on the Buffalo Township Zoning Map, and in the Buffalo Township Zoning Chapter, ignite or feed an open fire, and the owner or owners of land situate with the said areas permit may anyone to ignite or feed an open fire upon said owner's or owners' land, only as hereafter provided:

(Ordinance No. 14-07, adopted June 2, 2014; amended by Ordinance No. 21-01, adopted April 5, 2021)

(a) Open burning may be conducted in the Village, Commercial Manufacturing and Urban Fringe Zoning Districts Monday through Saturday, between sunrise and sunset, weather permitting.

(Amended by Ordinance No. 21-01, adopted April 5, 2021)

(b) All burning shall be contained, maintained and controlled in a suitable noncombustible device or container, that is vented and covered with a wire mesh top, or other noncombustible vented cover, having holes or openings no larger than 1 square inch.

(c) All such fires shall be attended at all times by a person at least sixteen (16) years of age and shall be controlled so as not to endanger real or personal property.

(d) All such fires shall be completely extinguished at the end of the herein set forth burning hours.

(e) Open fires may be maintained upon written permission from the Buffalo Township Board of Supervisors or its authorized agent, which may include specific conditions, pursuant to written application and after notice to the Union County Emergency Management Services in the following circumstances:

(1) By an officer of a local, state or federal governmental body or quasi-governmental body acting in his or her official capacity when the same is necessary for the prevention of a fire hazard which cannot be abated by any other means and in the preservation of the public health and safety.

(2) By any person when, in the sole discretion of the Board of Supervisors or its agent, no other practical means is available for the disposal of the material to be burned.

**§105. Prohibited Materials.** It shall be unlawful to burn any material which may be recycled through the Township recycling programs conducted in Union County, Pennsylvania or

any textiles, woven materials, plastic, styrofoam, foam rubber, rubber, mattresses, or any material which generates toxic fumes, gases or odors or any material the burning of which is prohibited by any state, federal or local statute, law, rule or regulation.

**§106. Exceptions.** Recreation open fires shall be permitted at all times provided that said fires are used for cooking and relaxation immediately following the meal. Said fires shall be contained in a fire pit, fireplace or firebox, charcoal or gas grill or other device designed and constructed for open burning and shall be maintained during its use, at all times, by a person at least 16 years of age.

**§107. Enforcement.** The Board of Supervisors of Buffalo Township, Union County, Pennsylvania, through its individual members or any person authorized by the Buffalo Township Board of Supervisors, shall have the power and duty to enforce the provisions of this Part.

**§108. General Prohibition.** Notwithstanding anything herein to the contrary, no open fire shall be permitted where the same shall be a threat to the safety and/or health of any person or property including the person or persons igniting, feeding or attending said open fire on their property.

**§109. Penalties.** Any person violating any of the provisions of this Part shall be prosecuted for the same in the same manner as provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure, and upon conviction of a violation of any of the provisions of this Part shall be sentenced to pay a fine not exceeding \$1,000.00, cost of prosecution and/or imprisonment to the extent allowed by law for the punishment of a summary offense. Each day shall be a separate violation. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required by Pennsylvania Rules of Criminal Procedure.

**§110. Severability.** The provisions of this Part are severable, and if any section, clause, sentence, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Buffalo Township Board of Supervisors that this Part would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

(Ordinance No. 12-07, adopted March 5, 2012)

## CHAPTER 7

### FIRE PREVENTION AND FIRE PROTECTION

#### Part 2

#### Fire Insurance Proceeds

##### **§201. Use of Fire Insurance Proceeds.**

(1) No insurance company, association or exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within Buffalo Township, Union County, Pennsylvania (Township), where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00, unless the insurer is furnished by the Treasurer of the Township with a Certificate pursuant to Section 508(b) of the Insurance Company Law of 1921 as amended by Act 98 of 1992 and Act 93 of 1994 (collectively the "Act") and unless there is compliance with the procedures set forth in Section 508(c) and 508(d) of the Act.

(2) Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Township has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Secretary of the Township shall immediately render a bill for such work, if not already done upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim. The Treasurer of the Township shall furnish a Certificate within fourteen (14) days after the request to the insurer either:

(a) Stating that there are no unpaid municipal claims or municipal expenses against the property; or

(b) Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

(c) Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a Certificate and bill pursuant to subsections (1) and (2) of this section, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of subsection (3) hereof.

(3) When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this section or when the Township Treasurer has issued a Certificate described in subsection (2)(a) indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

(a) The insurer shall transfer from the insurance proceeds to the Township Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof.

(b) If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Township, a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Secretary of the Township from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro-rate basis by all insurers insuring the building or other structure.

(c) Upon receipt of the above described portion of the insurance proceeds the Secretary of the Township shall do the following:

(1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing or any proceedings related thereto;

(2) Mail to the named insured at the address received from the insurer a notice that the proceeds have been received by the Township and that the procedures under this subsection shall be followed;

(3) After the transfer, the named insured may submit to the Township a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Secretary shall, if such estimates are deemed by the Township to be reasonable, return to the insured the amount of the funds transferred to the Township in excess of that amount required to pay the municipal expenses, plus the said estimate; provided, however, that the

Township has not commenced to remove, repair or secure the building or other structure in which case the Township will complete the work;

(4) Pay to the Secretary of the Township for reimbursement to the Township General Fund, the amount of the municipal expenses paid by the Township;

(5) Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate issued by the Township Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable Codes and Regulations of the Township.

(6) Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency in the amount of municipal claims or municipal expenses by an action at law or in equity, to enforce the Township Codes or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Township may deem responsible.

**§202. Limits of Liability.** Nothing in this Part shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Part or to make the Township or any public official of the Township an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Part.

**§203. Insurance Company Rights Reserved.** An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structural removal liens or removal expenses incurred by the Township shall have full benefit of such payment, including all rights of subrogation and of assignment.

**§204. Construction.** This Part shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent blight and deterioration.

**§205. Notification of Pennsylvania Department of Community and Economic Development.** The Secretary of the Township shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development.

**§206. Penalty.** Any person, firm, corporation, partnership, or entity who shall violate the provisions of this Part, the Act or the Code, shall, upon conviction thereof in an action brought before a District Justice in the same manner as provided for the enforcement of a summary offense under the Pennsylvania Rules of Criminal Procedure

shall be sentenced to pay a fine not to exceed one thousand dollars (\$1,000.00) per violation and/or imprisonment to the extent allowed by law for the punishment of summary offences. Each day or portion thereof that a violation shall occur shall be a separate offense. The said action may be brought by the Township Solicitor without the consent of the District Attorney.

Notwithstanding anything herein to the contrary the provisions of this Part may be enforced through an action in equity brought before the Court of Common Pleas of Union County.

(Ordinance No. 11-05, adopted August 1, 2011)