

CHAPTER 7

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CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

Part 1

Open Burning of Garbage and Refuse Prohibited

§101. Prohibition. It shall be unlawful for any person to perform the open burning of any material within the municipal boundaries of East Buffalo Township, Union County, Pennsylvania, except for the following:

(1) A fire set to prevent or abate a fire hazard when approved and supervised by the East Buffalo Township Fire Chief or his/her delegated representative.

(2) Any fire set for the purpose of instructing personnel in firefighting under the direction and supervision of the East Buffalo Township Fire Chief or his/her delegated representative.

(3) Any fire set for the purpose of the prevention and control of disease or pests when approved and supervised by the East Buffalo Township Fire Chief or his/her delegated representative.

(4) A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

(5) All other open burning fires shall be limited to split wood commonly burned in fireplaces, fire pits or similar facilities. Any such fire shall be contained within a metal or masonry barrel, pit or similar device which shall be no more than three (3) feet square or three (3) feet in diameter and shall be located not less than twenty-five (25) feet from any structure nor less than ten (10) feet from an adjoining property line. The said fire must be supervised at all times by an adult.

(6) Open burning shall not include charcoal grills or gas grills utilized in the preparation of food. The said grills shall not be restricted as to size or location but shall be utilized and operated in a safe manner.

(7) Public, governmental, charitable and private organizations, and groups or similar entities, may conduct ceremonies, rallies, demonstrations, or similar events utilizing open burning such as bonfires provided the open burning is approved by and supervised by the East Buffalo Township Fire Chief or his/her delegated representative.

§102. Approvals Required. Those persons setting fires pursuant to §101(1), §101(2), §101(3) and §101(7) shall, prior to setting the said fire, obtain permission for the same from the East Buffalo Township Fire Chief or his/her delegated representative. If there are multiple Fire Chiefs, permission shall be obtained from the Fire Chief of the fire company servicing that portion of the Township in which the fire shall be set. The East Buffalo Township Fire Chief is authorized to require said person to submit such information as the Fire Chief shall require, to make an informed determination and the said Fire Chief may impose reasonable conditions

including requirements for insurance upon the said burning or may deny permission where appropriate.

(1) Requests for approval shall be submitted, in writing, to the Fire Chief at least seven (7) days prior to the date of the proposed burning. The Fire Chief may require that the request be submitted on a specific application and may charge a reasonable fee for review of the request, and the issuance of a written approval. If the Fire Chief determines that fire company personnel and equipment need to be present for the said burning, the Fire Chief may impose a reasonable fee for such services. All required fees shall be paid to the fire company prior to the said burning.

§103. Notice. Any person failing to comply with the provisions of this Part shall be given a written notice of the same by the police department having jurisdiction in East Buffalo Township and upon receipt of said notice shall immediately cease open burning. Failure to immediately cease open burning shall be a violation of this Part and said person shall be subject to the penalties as herein set forth. Any person failing to comply with the provision of this Part, two or more times, shall upon verbal or written notice from a police officer, immediately cease burning and shall be prosecuted for a violation of the Part as herein provided.

§104. Person Responsible. In addition to the person violating the provisions of this Part, the owner and/or occupier of the land upon which the violation shall occur shall be in violation of the Part.

§105. Definitions.

EAST BUFFALO FIRE CHIEF - That person or persons designated by East Buffalo Township Board of Supervisors as the Township Fire Chief. If East Buffalo Township is serviced by more than one fire department there may be more than one fire chief.

MATERIAL - All organic or inorganic personal property including but not limited to household trash, garbage, rubbish, refuse, books, magazines, newspapers, cardboard, and all items that are required to be recycled in East Buffalo Township, brush, yard waste, leaf waste (defined by the Pennsylvania Department of Environmental Protection as leaves, grass clippings, garden waste, tree trimmings, chipped shrubbery, and other vegetative materials), scrap lumber, vegetation, wood (treated and untreated), building products, plastic products, insulation, upholstered furniture, garbage, dead animals, human and animal excrement, hair, rubber products, tires, hydrocarbon products, flammable liquids, asphalt, tar shingles, roofing materials, bedding, foam rubber, nylon, rayon, cotton, wool, polyester, synthetic materials, clothing, cloth, wiring, solid waste and construction waste as defined by the laws and regulations of the Commonwealth of Pennsylvania.

OPEN BURNING - The burning of any material in an open atmosphere including but not limited to burn barrels or drums, outdoor fireplaces or other containers.

PERSON - Any individual, partnership, corporations, firm, associations or other legal entity.

§106. Enforcement. The provisions of this Part may be enforced by any police officers of the police department servicing East Buffalo Township or by any person authorized by the Board of Supervisors of East Buffalo Township.

§107. Penalties. Violations of this Part shall be enforced by an action brought before a District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required by Pennsylvania Rule of Criminal Procedure No. 83 (c). The fine for a violation of this Part shall not exceed \$1,000.00 and/or imprisonment to the extent allowed by law for the punishment of summary offenses.

§108. Validity. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof 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 Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

(Ordinance 26, October 22, 1973; as amended by Ordinance 363, July 8, 2013; as amended by Ordinance 366, November 12, 2013)

CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

Part 2

Fire Limits

§201. Fire Limits Established. The fire limits of East Buffalo Township are hereby established as the entire Township.

(Ordinance 9, January 14, 1963; as amended by Ordinance 63, June 13, 1983)

CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

Part 3

Smoke Detection Devices

§301. Definitions. For purposes of this Part, the following words shall have the following meaning:

CUSTODIAL CARE FACILITY - A structure or portion thereof or a building or portion thereof used for the lodging, boarding and/or care, on a twenty-four (24) hour a day basis, of persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety, either partially or totally, without the assistance of another person, or who are detained for correctional purposes. This includes, but is not limited to, nursing facilities, intermediate care facilities, infirmaries or homes for the aged, nursing, halfway homes, community living arrangements and jails.

DWELLING UNIT - A structure, or portion thereof, building or portion thereof, arranged for the use of one or more individuals living together as a housekeeping unit on a permanent, temporary or transient basis which may or may not include sanitary facilities or facilities for preparation, storage or serving of food.

OWNER - Any person who, alone, or jointly or severally with other persons, has legal title to any premises. This includes any person who has charge, care or control over any premises as (a) an agent, officer, fiduciary, or employee of the owners; (b) the committee, conservator, or legal guardian of an owner who is incompetent, a minor or otherwise under a disability; (c) a trustee, elected or appointed, or a person required by law to act as a trustee, other than a trustee under a deed of trust to secure the payment of money; or (d) an executor, administrator, receiver, fiduciary, officer appointed by any court, attorney-in-fact, or other similar representative of the owner or his or her estate. This does not include a lessee, a sublessee or other person who merely has the right to occupy or possess a premise.

SLEEPING AREA - (1) a room intended for sleeping or (2) a combination of rooms intended for sleeping within a dwelling unit, which are located on the same floor and are not separated by another habitable room, such as a living room, dining room or kitchen but not including a bathroom, hallway or closet. A dwelling unit may have more than one sleeping area.

SMOKE DETECTOR - A device which detects visible or invisible particles of combustion and is capable of providing a suitable audible alarm of at least eighty-five (85) decibels at ten feet (10'), either ionization or photo-electric type.

(Ordinance 66, April 16, 1984)

§302. Smoke Detectors Required.

(1) The owners of any structures or buildings situate in East Buffalo Township, Union County, Pennsylvania, which on the effective date of this ordinance, contain two (2) or more dwelling units as that term is defined herein shall, within six (6) months of the effective date of this ordinance, install and maintain smoke detectors in accordance with the provisions of this ordinance.

(2) The owners of any structure or building situate in East Buffalo Township, Union County, Pennsylvania, all or a portion of which is utilized as a Custodial Care Facility, as that term is defined herein, on the effective date of this ordinance (April 21, 1984), shall, within six (6) months of the effective date of this ordinance install and maintain smoke detectors in accordance with the provisions of this Part 3.

(3) Any owner who shall, after the effective date of this ordinance, construct a structure or building, or who shall convert an existing structure or building that shall, when such construction or conversion is complete, contain two (2) or more dwelling units or shall be utilized partially or entirely as a Custodial Care Facility shall install and maintain smoke detectors in accordance with the provisions hereof.

(4) No building permit or certificate of occupancy shall be issued unless the application for the building permit or certificate of occupancy shall evidence compliance with the provisions of this Part.

§303. Installation.

(1) One or more smoke detectors shall be installed in each dwelling unit in such place or places as will assure that the sound emitted by the said detectors, when functioning properly, will be heard by any and all persons present within the said dwelling unit and not suffering from a hearing impairment.

(2) One or more smoke detectors shall be installed in each Custodial Care Facility in such place or places as will assure that the sound emitted by the said detectors, when functioning properly, will be heard by any and all persons present within the said Custodial Care Facility and not suffering from a hearing impairment.

(3) The determination of whether the sound emitted by the smoke detector will be heard as provided by subsections (1) and (2) shall rest solely with the East Buffalo Township Zoning Officer.

(4) The following shall be minimum standards for the placement of smoke detectors, provided however that if, in the sole opinion of the East Buffalo Township Zoning Officer, the number of smoke detectors needed to meet the purposes of this ordinance are greater than the minimum standards herein set forth, the said additional smoke detectors shall be installed. The minimum standards are as follows:

(a) The owner of each multi-family residential structure or dwelling unit shall install at least one (1) smoke detector to

protect each sleeping area or at least one detector at the top of each stairway leading to a sleeping area and if there be no such stairway, then in the hallway leading to the sleeping area. In a dwelling unit in which there are no separate sleeping areas, the owner shall install the smoke detector in the room used for sleeping. Smoke detectors installed in or near a stairway or hallway leading to a sleeping area shall be installed in such a manner as to assure that rising smoke is not obstructed in reaching the detector.

(b) The owner of each multi-family residential structure or dwelling unit shall install at least one (1) smoke detector adjacent to or within each kitchen area.

(c) The owner of each custodial care facility shall install smoke detectors in each corridor that is adjacent to a room used for sleeping but in no case may the detectors be placed further apart than thirty feet (30') or more than fifteen feet (15') from any wall, or the smoke detector may be installed in each room used for sleeping. Locations shall be approved by the East Buffalo Township Zoning Officer.

(d) An owner subject to this ordinance shall install each smoke detector on the ceiling at a minimum of six inches (6") from the wall or on a wall at a minimum of six inches (6") from the ceiling, but shall not install smoke detectors in a dead air space, such as where the ceiling meets the wall.

(Ordinance 66, April 16, 1984; as amended by Ordinance 68, June 11, 1984)

§304. Equipment.

(1) In structures, or portions thereof, or buildings or portions thereof containing two (2) or more dwelling units on the effective date of this ordinance or utilized as a Custodial Care Facility on the effective date of this ordinance, smoke detectors shall be energized by self-monitored batteries, by direct connection to the electric supply of the structure or building or by connection to an electric outlet which shall be fitted with a plug restrainer device provided the said electric outlet is not controlled by a switch other than the switch controlling the main power supply to the structure, building, dwelling unit or custodial care facility.

(2) In structures or portions thereof or buildings or portions thereof which shall, after the effective date of this ordinance be constructed or renovated and which, after completion of construction or renovation, shall contain two or more dwelling units or be utilized as a Custodial Care Facility smoke detector shall be energized by direct connection to the electric supply of the said structure, building, dwelling unit or custodial care facility.

(3) In lieu of smoke detectors, a fire detection system may be installed subject to the approval of the system and approval of the manner in which it is installed by the East Buffalo Township Zoning Officer, or his designee.

(Ordinance 66, April 16, 1984)

§305. Maintenance.

(1) All smoke detectors or fire detection systems installed in accordance with the provisions of this Part 3 shall be maintained in proper working order by the owner of the structure or building in which the said smoke detector or fire detection system is installed. Said maintenance shall include but not be limited to periodic inspections and testing of the said smoke detection or fire detection system. Owners shall keep written records of all inspections and testings. Said inspection and testing shall occur as frequently as the owner shall determine but no less often than semi-annually. Additionally, Owner shall inspect and test all smoke detectors or fire detection systems servicing a dwelling unit immediately prior to the occupancy of that dwelling unit by a new occupant provided the previous occupant's occupancy of the dwelling unit was for a term greater than six (6) months.

(2) Owner shall, upon twenty-four (24) hours written notice, permit the East Buffalo Township Zoning Officer or his designee to inspect and test any smoke detector or fire detection system installed pursuant to the provisions of this Part 3. Owner shall, upon twenty-four (24) hours written notice, exhibit to the East Buffalo Township Zoning Officer or his designee, owner's written record of inspections and testings as provided in §305(1) hereof.

(3) Notwithstanding anything herein to the contrary, the malfunction of any smoke detector or fire detection system due solely to the failure of a battery used to energize the said smoke detection or fire detection system shall not be a violation of this ordinance, provided Owner exhibits proof that he has complied with the inspection and testing provisions of this ordinance and he has replaced the battery energizing the system with a new unused battery or batteries within twelve (12) months immediately preceding the said malfunction.

(Ordinance 66, April 16, 1984)

§306. Penalties and Enforcement.

(1) Violations of this Part shall be enforced by an action brought before a District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required by Pennsylvania Rule of Criminal Procedure No. 83 (c). The fine for a violation of this Part shall not exceed \$1,000.00 and/or imprisonment to the extent allowed by law for the punishment of summary offenses.

(Ordinance 289, December 14, 2006)

(2) Failure of an Owner to comply with the provisions of this Part 3 or the violation of the provisions of this ordinance by the owner shall be grounds for revocation of the occupancy permit for the dwelling unit or Custodial Care Facility which is not in compliance or which is in violation. Owner shall have ten (10) days from the date of written notice of the failure to comply with provisions of the ordinance or of written notice of the violation of the ordinance within

which to comply with the provisions of the ordinance or correct the violations. In the event the Owner shall fail to comply with the ordinance or correct the violation within the said ten (10) days, the East Buffalo Township Zoning Officer shall notify the Owner in writing that the occupancy permit is revoked and the dwelling unit or custodial care facility shall be vacated immediately. The provisions of this Subsection (2) may be enforced by an action in equity or in law.

(Ordinance 66, April 16, 1984)

CHAPTER 7

FIRE PREVENTION AND FIRE PROTECTION

Part 4

Use of Fire Insurance Proceeds

§401. Authority and Purpose. The Commonwealth of Pennsylvania has enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims and has enacted amendments thereto. It is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration. East Buffalo Township desires to adopt an Ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claim to East Buffalo Township.

§402. Designated Officer. The Township Treasurer, or such official's designee, is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

§403. 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 East Buffalo Township, Union County, Pennsylvania (hereinafter "Township"), where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, unless the insurer is furnished by the Township Treasurer 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 (collectively "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 Township Treasurer 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 Township Treasurer 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 Subsection A above, the insurer shall transfer to the Township Treasurer an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of Section 401(3) hereof.

(3) When all Municipal Claims and Municipal Expenses have been paid pursuant to Section 401(2) of this Part or when the Township Treasurer has issued a Certificate described in Section 403(2) (A) of this Part indicating that there are no Municipal Claims or Municipal Expenses against the property, the insurer shall pay the claim of the of the named insured, provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds sixty (60%) percent 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, Two Thousand (\$2,000.00) Dollars for each Fifteen Thousand (\$15,000.00) Dollars of such claim or fraction thereof.

(b) If at the time a loss report is submitted by the insured to the insurer with a copy to the Township of 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 Township Treasurer 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-rata basis by all insurers insuring the building or other structure.

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

(i) 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;

(ii) 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;

(iii) 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 Treasurer 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;

(iv) Pay to the Township Treasurer for reimbursement to the Township, the amount of the Municipal Expenses paid by the Township.

(v) Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate issued by the Township Treasurer 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.

§404. 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.

§405. 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.

§406. 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.

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

§408. 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 Judge in the same manner as provided for the enforcement of a summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine not to exceed One Thousand (\$1,000.00) Dollars per violation and/or imprisonment to the extent allowed by law for the punishment of summary offenses. 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.

§409. Severability. The provisions of this Part of severable. If any sentence, clause or section of this Part is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Part. It is hereby declared as a legislative intent that this Part would have been adopted had such unconstitutional, illegal or invalid provision not been included herein.

(Ordinance 401, adopted June 14, 2021)