

CHAPTER 7

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PART 1

OPEN FIRES AND BURNING

§101. PURPOSE.

The purpose of this Part is to prevent public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained and to avoid unnecessary calls and false alarms to the fire departments providing service to residents of the Township of Vernon.

(Ord. 1992-5, -/-/1992, §1)

§102. DEFINITIONS.

As used in this Part the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

COMBUSTIBLE MATERIALS - paper, bags, old clothes, leather, carpets, wood, brush, tree branches, tree leaves, yard trimmings, furniture and other similar materials.

COMMERCIAL BURNING - the burning of 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, chemicals, cinders and other forms of solid or liquid waste materials.

CONTAINED FIRE - any fire contained in an incinerator, a fireplace designed for outdoor cooking or a fireproof container.

FIRE - any fire set or maintained outside of a building other than a gas or charcoal fire used for cooking purposes.

FIRE DEPARTMENT - any organized fire department providing fire protection services to the residents of the Township of Vernon.

GARBAGE - all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

INCINERATOR - any device specifically designed for the destruction by burning of refuse or any other combustible material; the burning capacity of such a device must be intense enough so as to eliminate potential sparks and burning embers.

PERMIT - a burning permit issued by the Township of Vernon governing uncontained fires.

PERSON - an individual, partnership, association, corporation, department, bureau, agency or other legal entity.

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UNCONTAINED FIRE - any fire except a contained fire as hereinbefore defined in this Part.

(Ord. 1992-5, -/-/1992, §2)

§103. GENERAL RESTRICTIONS.

1. No person shall set or maintain a fire within 50 feet of any building or property line.
2. No person shall set or maintain a fire on any public road nor within the rights-of-way of any public road, on any public property except where a designated area has been set aside for this purpose and an appropriate container has been provided to contain such fire.
3. No person shall set or maintain a fire that may endanger any building or property except when such building or property is being used by a fire department for training exercises.
4. No person shall set or maintain a fire on Sunday except a contained fire as hereinbefore defined in this Part; provided, that this restriction would not apply to fires set or maintained in connection with the training of a fire department.
5. No person shall set or maintain a fire for the purpose of burning garbage as hereinbefore defined in this Part.
6. No person shall set or maintain a fire involving commercial burning as hereinbefore identified in this Part without first securing a burning permit from the Township of Vernon.
6. No fire, contained or uncontained, shall be set or maintained unless constantly attended by at least one adult person.
7. Any contained or uncontained fire is:
 - A. Not permitted to burn in an unsafe manner under adverse weather conditions.
 - B. Unsupervised.
 - C. Creating a public nuisance.
 - D. Determined unsafe by the duly designated enforcement officer or by a Supervisor of the Township of Vernon and shall be extinguished immediately upon demand by such person.

(Ord. 1992-5, -/-/1992, §3)

§104. CONTAINED FIRES.

1. Only contained fires shall be utilized for the purpose of burning readily combustible materials.
2. No contained fire shall be permitted to burn or smolder between sunset and sunrise.
3. A contained fire that causes noxious odors or excess smoke or creates a fire hazard is hereby declared to be a public nuisance and subject to enforcement as provided by law and/or pursuant to the penal provisions of this Part or both.

(Ord. 1992-5, -/-/1992, §4)

§105. UNCONTAINED FIRES.

1. No uncontained fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania, the County of Crawford or the Board of Supervisors of Vernon Township. Notice of such restrictions shall be given by notice in a paper of general circulation and by posting a notice at the Township Municipal Building or by giving such other notice as the Board of Supervisors of Vernon Township shall deem appropriate from time to time.
2. No uncontained fire shall be utilized for the purpose of burning readily combustible materials or garbage as hereinbefore defined in this Part.
3. No uncontained fire shall be allowed to burn or smolder between sunset and sunrise.
4. In the event it is necessary to have an uncontained fire at other than the times permitted under the terms of this Part, then, and in that event, a permit shall be secured from the Board of Supervisors of the Township of Vernon and a copy of said permit shall be delivered to the Vernon Township Fire Department.
5. An uncontained fire which shall cause noxious odors, excess smoke or create a fire hazard is hereby declared to be a public nuisance and subject to enforcement as provided by law and/or pursuant to the penal provisions of this Part or both.

(Ord. 1992-5, -/-/1992, §5)

§106. ENFORCEMENT.

The Board of Supervisors of the Township of Vernon shall appoint designated enforcement officers who, in addition to the Board of Supervisors of Vernon Township, shall have the power to enforce the provisions of this Part.

(Ord. 1992-5, -/-/1992, §6)

§107. PENALTIES.

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Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 1992-5, -/-/1992, §7; as amended by Ord. 1997-2, 3/6/1997; and by Ord. 1998-2, 3/5/1998)

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 insurer for fire damage to a structure located within the Township of Vernon, Crawford County, Pennsylvania, where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Treasurer of the Township of Vernon with a certificate pursuant to §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 §§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 of Vernon 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 of Vernon shall immediately render a bill for such work, if she has not already done so. Upon written request of the named insured specifying the tax 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 of Vernon shall furnish a certificate within 14 working days after the request to the insurer (or at her discretion an oral notice confirmed in writing) either:
 - A. Stating that there are no unpaid municipal claims or municipal expenses against the property.
 - B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

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 (2) of this Section, the insurer shall transfer to the Secretary of the Township of Vernon 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 Treasurer of Vernon Township has issued a certificate described in subsection (2) 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:

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- A. The insurer shall transfer from the insurance proceeds to the Treasurer of the Township of Vernon, Crawford County, Pennsylvania, in the aggregate, \$2,000 for each \$15,000 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 of Vernon, 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 of Vernon 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 Secretary of the Township of Vernon, Crawford County, Pennsylvania, 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 of Vernon 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 of Vernon in connection with such removal, repair or securing of 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 of Vernon and that the procedures under this subsection shall be followed.
 - (3) After the transfer, the named insured may submit to the Township of Vernon a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Secretary of the Township of Vernon shall, if such estimate is deemed by the Secretary of the Township of Vernon to be reasonable, return to the insured the amount of the funds transferred to the Township of Vernon in excess of that amount required to pay the municipal expenses; provided, however, that the Township of Vernon has not commenced to remove, repair or secure the building or other structure in which case the Township of Vernon will complete the work.
 - (4) Pay to the Secretary of the Township of Vernon, Crawford County, Pennsylvania, for reimbursement to the Vernon Township general fund, the amount of the municipal expenses paid by the Township of Vernon.
 - (5) Pay the remaining balance in the fund without interest to the named insured upon receipt of a certificate issued by the Secretary of the Township of Vernon 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 of Vernon.

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

(Ord. 2012-01, 6/7/2012, §I)

§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 of Vernon or any public official of the Township of Vernon 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.

(Ord. 2012-01, 6/7/2012, §II)

§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 of Vernon shall have a full benefit of such payment including all rights of subrogation and of assignment.

(Ord. 2012-01, 6/7/2012, §III)

§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 urban blight and deterioration.

(Ord. 2012-01, 6/7/2012, §IV)

§205. NOTIFICATION TO PENNSYLVANIA DEPARTMENT OF COMMUNITY ECONOMIC DEVELOPMENT.

The Secretary of the Township of Vernon shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community Economic Development.

(Ord. 2012-01, 6/7/2012, §V)

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§206. PENALTY.

Any owner of property, any named insured or insurer who violates the provisions of this Part or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof to pay a fine not greater than \$1,000 plus costs and in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days. Each day in which an offense shall continue shall be deemed a separate offense.

(Ord. 2012-01, 6/7/2012, §VI)