

CHAPTER 10

FIRE PREVENTION AND FIRE PROTECTION

Part 1

Outdoor Burning, Open Burning and Outdoor Wood Fired Burners

§101. Short Title. This Part shall be known and may be cited as the Borough of White Haven Outdoor Burning and Outdoor Furnace Ordinance.

§102. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Clean Wood – means natural wood that is free of paint, stains, or other types of coatings and natural wood that has not been treated with including but not limited to copper chromium arsenate, creosote, or pentachlorophenol.

(b) Open Burning – means a fire, the air contaminants from which are emitted directly into the outdoor atmosphere and not directed thereto through a flue. Notwithstanding the foregoing, open burning shall not include grilling, cooking, or using charcoal, wood, propane, or natural gas in cooking or grilling appliances and the use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for construction or maintenance activities.

(c) Outdoor Burning – means any fire which is located outside of a structure used for human occupancy. Outdoor burning includes open burning and outdoor wood fire burners. Notwithstanding the foregoing, outdoor burning shall not include grilling, cooking, or using charcoal, wood, propane, acetylene, natural gas, gasoline, or kerosene in a device intended for construction or maintenance activities.

Exception to Open Burning and Outdoor Burning: Portable outdoor grills, fired by propane or charcoal, and designed for food preparation, and decorative chimneas, portable or fixed patio fireplaces and masonry fireplaces are all excluded from the provisions of this Ordinance.

(d) Outdoor Wood Fired Burner – means a fuel burning device:

(1) designed to burn wood or other approved solid fuels;

(2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and

(3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

§103. Outdoor Open Burning Prohibited.

(a) No person or persons, firm, association or corporation shall set or maintain any open burning upon any of the streets, roads, sidewalks, alleys, private property, or public lands in the Borough or burn or cause to be burned thereon any rubbish, leaves or any other kind of substance, nor shall any such person or persons set or maintain any outdoor burning anywhere in the Borough.

(b) Exceptions. Activities prohibited in this Part are subject to the following exceptions:

(1) Open burning may be set in the performance of an official duty of any public officer if the fire is necessary for:

(A) the prevention of a fire hazard which cannot be abated by other means; or

(B) the protection of public health.

(2) Open burning shall be permitted at any time when the same is conducted during an official act or exercise, pre-approved by the Borough Council

(3) Open burning shall be permitted at any time when the same is pre-approved by the Borough Council for the following purposes:

(A) conducted by any person during an official scheduled training exercise in firefighting/fire protection and control; or

(B) utilized as a ceremonial bonfire by any person during an official scheduled public event, such as a school or university sponsored pep rally.

§104. Installation of Outdoor Wood Fired Burners. Any person desiring to install an Outdoor Wood Fired Burner within the Borough shall obtain a permit from the Code Enforcement Officer. The applicant for such a permit shall:

(a) Present a plan showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the Outdoor Wood Fired Burner.

(b) Locate the Outdoor Wood Fired Burner at least 100 feet from any occupied structure not located on the lot which the outdoor wood fired burner will be located.

(c) Locate the Outdoor Wood Fired Burner at least 50 feet from all property lines.

(d) Present evidence that the applicant has obtained a zoning permit for the proposed Outdoor Wood Fired Burner.

(e) Present evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the Outdoor Wood Fired Burner and its connection to the mechanical system of the structure it will serve.

(f) Demonstrate that the chimney of the outdoor wood fired burner is five (5) feet in excess of the height of any occupied structure within 300 feet not located on the lot on which the Outdoor Wood Fired Burner will be located.

(g) Provide a copy of the manufacturer's specification and instructions, which the applicant agrees to comply with and not alter at any time.

(h) Demonstrate that the Outdoor Wood Fired Burner has been laboratory tested and listed to appropriate safety standards such as (UL) (Underwriters Laboratories) and ANSI (American National Standard Institute) standards.

(i) Have the application signed by all owners of the lot on which the Outdoor Wood Fired Burner will be located, including the contractor installing the Outdoor Wood Fired Burner.

§105. Use of Outdoor Wood Fired Burners. Each person who owns a lot on which an Outdoor Wood Fired Burner is located and each person who occupies a lot on which an Outdoor Wood Fired Burner is located shall be responsible to insure that the Outdoor Wood Fired Burner is operated in accordance with all requirements of this Part and shall be responsible to obtain an annual permit to continue the use of such Outdoor Wood Fired Burner.

(a) The only substance that may be burned in an Outdoor Wood Fired Burner is clean wood.

(b) No person shall burn any of the following in an Outdoor Wood Fired Burner unless otherwise permitted by manufacturer specifications:

- (1) Any wood that does not meet the definition of clean wood.
- (2) Tires.
- (3) Lawn clippings or yard waste.
- (4) Materials containing plastic.
- (5) Materials containing rubber.
- (6) Waste petroleum products.
- (7) Paints and paint thinners.
- (8) Coal.
- (9) Any type of paper.
- (10) Construction and demolition debris.

- (11) Plywood.
- (12) Particleboard.
- (13) Salt water driftwood.
- (14) Manure.
- (15) Animal carcasses.
- (16) Asphalt products.
- (17) Used cooking oils.

(c) The Outdoor Wood Fired Burner shall at all times be operated and maintained in accordance with the manufacturer's specifications.

(d) The Outdoor Wood Fired Burner shall be maintained and operated in compliance with all emissions of air quality standards promulgated by the U.S. Environmental Protection Administration (EPA).

(e) The emissions from the Outdoor Wood Fired Burner shall not cause damage to vegetation or property of neighbors.

(f) Commencing on January 1 of each year, the owner of the lot upon which an Outdoor Wood Fired Burner is located shall apply for an operating permit which shall be valid for the entire year. The owner shall pay all fees imposed by the Borough for the application for such operating permit and the inspection of the Outdoor Wood Fired Burner to determine compliance with this Part.

(g) In the event that the Building or Construction Code is in conflict with any of the sections of this Ordinance, then the Building or Construction Code shall apply.

§106. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§107. 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 Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§108. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof in an action brought 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 less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) plus costs. Each day that a violation of this Part, or any Section of this Part, continues which shall constitute a separate offense.

Part 2
Requiring Smoke Detectors & Carbon Monoxide Detectors

§201. Definitions. For purposes of this ordinance, the following words shall have the following meaning:

(a) Dwelling Unit - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(1) Dwelling, Single Family – means a detached building, on a permanent foundation, containing one dwelling unit and designed, constructed, or occupied for exclusive occupancy for one family or household.

(2) Dwelling, Two Family – means a building containing two dwelling units entirely separated from each other by vertical walls or horizontal floor un-pierced except for access to the outside or to a common cellar and arranged or used for occupancy by two individual families or households.

(3) Dwelling, Mobile Home – means a transportable, single-family dwelling unit, intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

(4) Dwelling, Multi-Family – means a building containing three (3) or more dwelling units, entirely separated by vertical walls or horizontal floors un-pierced except for access to the outside or to a common cellar and arranged or used for occupancy by three or more individual families or households. Low-rise multi-family buildings shall include townhouses, garden apartments and any other housing type, not exceeding three stories in height. Any multi-family building exceeding three stories in height shall contain an elevator.

(b) Smoke Detector – means 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.

(c) Carbon Monoxide Detector - A carbon monoxide detector or CO detector is a device that detects the presence of the carbon monoxide (CO) gas in order to prevent carbon monoxide poisoning, and is capable of providing a suitable audible alarm of at least eighty-five (85) decibels at ten feet (10').

§202. Smoke Detectors & Carbon Monoxide Detectors Required in Dwelling Units. In each dwelling unit, except where the Uniform Construction Code applies, there shall be provided by the owner of the real estate, a minimum of one (1) smoke detector and

one (1) carbon monoxide detector sensing device on each floor, in any common area, and in each bedroom, which has received Underwriters Laboratories approval.

§203. Alarm Requirements. Smoke detector and carbon monoxide sensing devices shall provide an alarm suitable to warn occupants within each dwelling unit or stairwell in the event of fire.

§204. Time of Installation. Smoke detectors and carbon monoxide detectors shall be installed in all dwelling units, by the owner. No later than upon a change of ownership of the real estate upon which the dwelling unit is located or within sixty (60) days of the adoption of this Ordinance, whichever occurs first.

§205. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§206. 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 Borough Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§207. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.

Part 3
Fireworks

§301. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Fall Out Zone- means the maintaining of a safe distance during a Fireworks display between the audience or place where persons gather to observe the Fireworks and the location where the Fireworks are discharged.

(b) Fireworks- means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. The definition of Fireworks includes, but is not limited to, firecrackers, skyrocketes, roman candles, aerial fireworks, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound.

§302. Manufacturing of Fireworks Prohibited. The manufacturing of Fireworks is prohibited within the Borough.

§303. Display or Discharge of Fireworks Permitted. The display or discharge of Fireworks within the Borough is only permitted when:

(a) A permit is first obtained from the Code Enforcement Officer.

(b) The Firework display is conducted by a certified, trained and experienced Pyrotechnician. The business entity performing, providing or supervising Fireworks must show proof to the Code Enforcement Officer that they are registered with the Pennsylvania Attorney General's Office.

(c) The White Haven Borough Fire Company must be: (i) notified of the date, time and location of the Firework's Display, and (ii) present with emergency equipment apparatus during the Firework's Display.

(d) A fall out zone of at least 300 feet in diameter must be maintained during a Fireworks display unless the White Haven Fire Company or Code Enforcement Officer believe a greater distance is required in which event the greater distance shall be maintained.

(e) The Firework's must be discharged in a manner so that they do not cause damage or injury to persons or property.

(f) The Pyrotechnician and business entity performing, providing and supervising the Fireworks shall adhere to all other requirements imposed by the White Haven Fire Department and the Code Enforcement Officer.

(g) All refuse and debris must be removed and disposed of properly at the conclusion of the event or within twenty four (24) hours of the conclusion of the event.

§304. Permit Application. Applications for permits shall be made in writing at least 15 days in advance of the date of the display or discharge of Fireworks. The possession, use and distribution of Fireworks shall only be lawful when performed in accordance with §303 above and under the terms and conditions imposed by the permit. A permit granted hereunder may not be transferred nor extend beyond the dates set forth therein.

§305. Enforcement. The Code Enforcement Officer or the White Haven Fire Chief shall be responsible for the enforcement of this Ordinance.

§306. Violation/Penalties. Any person violating any section of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars, and in default thereof, for a term of imprisonment of not more than thirty (30) days.

Part 4
Insurance Proceeds

§401. Designation of an Officer. The Treasurer of the Borough of White Haven is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

§402. Claim Restrictions. No insurance company, association or exchange (hereinafter the "Insurance Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within White Haven Borough (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500.00), unless the Insuring Agent is furnished by the Borough Treasurer with a municipal certificate pursuant to Section 508 (B) of Act 98 of 1992 and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

§403. Procedures. Where pursuant to Section 508 (B)(1)(I) of Act 98 of 1992, Borough Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

(a) The Insuring Agent shall transfer from the insurance proceeds to the Borough Council in the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, this section is to be applied such that if the claim is \$15,000 or less, the amount transferred to the Borough shall be \$2,000; or

(b) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

(c) The transfer of proceeds shall be on a pro-rata basis by all companies, associations, or exchanges insuring the building or other structure.

(d) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and Borough Council shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building or other structure.

(e) Upon receipt of proceeds under this section, the Borough shall do the following:

(1) The Treasurer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing of the building or any proceeds related thereto; and

(2) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Borough with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the Treasurer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed; and

(3) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the Treasurer and Code Enforcement Officer, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Borough shall transfer the remaining funds to the named insured; and

(4) To the extent that interest is earned on proceeds held by the Borough pursuant to this Section, and not returned to the named insured, such interest shall belong to the Borough. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(f) Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

§404. Adoption of Procedures and Regulations. The Borough Council may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

§405. Severability. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

§406. Repealer. All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same the affects this Ordinance.

§407. Penalties. Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to One Thousand Dollars (\$1,000.00) per violation. Each day that a violation occurs shall constitute a separate offense.

Part 5
Reimbursement of Costs for Emergency Services

§501. Definitions. As used herein, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Emergency Services - includes any service performed by a volunteer emergency services organization relating to any disaster, hazardous material incident, fire, industrial or private security or fire alarm systems incident, industrial accident, auto accident, or any other situation, incident or event that does or may present a potential danger, hazard or threat to the public health, safety and welfare.

(b) Volunteer Emergency Services Organizations - includes any non-governmental volunteer organizations such as the White Haven Borough Fire Company and any other organization located within White Haven Borough that provides or performs volunteer emergency services. This definition includes fire protection services, fire police services, volunteer rescue squads, and volunteer hazardous material response teams.

(Ord. No. 1-2004, 6/14/2008, Sec. 1)

§502. Authorization of Services and Equipment. The Borough authorizes all Volunteer Emergency Services Organizations to provide the labor, personnel, tools, equipment and materials necessary to perform emergency services as authorized by law, statute, rule, regulation, resolution or ordinance within the Borough or any other area in which a Volunteer Emergency Services Organization is authorized by the Borough or contracted with to provide such services. (Ord. No. 1-2004, 6/14/2008, Sec. 2)

§503. Schedule of Fees, Costs and Expenses. White Haven Borough Council may by resolution, from time to time, establish, revise, amend or rescind a schedule of fees for the emergency services, labor, personnel, tools, equipment and materials referred to herein. (Ord. No. 1-2004, 6/14/2008, Sec. 3)

§504. Requirement to Pay for Costs, Fees and Expenses. A person shall be liable for the costs, fees and expenses incurred by a Volunteer Emergency Services Organization that provides emergency services, labor, personnel, tools, equipment and materials unless the person has:

(a) Paid to the municipality where the volunteer emergency services organization is located, a tax which funds at least in part emergency services;

(b) Paid to a municipality a tax which funds at least in part emergency services and which municipality has contracted with the volunteer emergency services organization to perform emergency services for a fee paid by the municipality to the volunteer emergency services organization; or

(c) Paid dues or a monetary contribution to the volunteer emergency services organization within the preceding 12 months from the date that the emergency services were provided.

(Ord. No. 1-2004, 6/14/2008, Sec. 4)

§505. Reimbursement Procedures.

(a) **Billing, Charges and Invoicing.** Volunteer Emergency Services Organizations may bill, charge or invoice for the costs, fees and expenses associated with providing emergency services, including labor, personnel, tools, equipment, and material.

(b) **Recovery of Costs.** When a person receives a bill or invoice for reimbursement from the charges of a volunteer emergency services organization, the person shall be responsible for its payment. If the person is forwarding the bill or invoice to an insurance carrier, the person must first notify the volunteer emergency services organization that he or she is doing so, which notice must include the name, address, telephone number, insurance policy number, and contact person for the insurance carrier. However, the forwarding of a bill to an insurance carrier shall not relieve a person from the financial responsibility for payment of the bill or invoice.

(Ord. No. 1-2004, 6/14/2008, Sec. 5)

§506. Enforcement. In the event that any insurance carrier or person fails to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the volunteer emergency services organization who mailed or delivered the bill or invoice may enforce the provisions of this Ordinance by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due to that volunteer emergency services organization together with statutory interest, court costs, collection fees and/or reasonable attorney's fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate or provided by law. (Ord. No. 1-2004, 6/14/2008, Sec. 6)

§507. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or application. (Ord. No. 1-2004, 6/14/2008, Sec. 7)

§508. Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this ordinance. (Ord. No. 1-2004, 6/14/2008, Sec. 8)

Part 6
Fire Protection

§601. Fire Company Reorganized. The Borough recognizes the White Haven Fire Company No. 1 as the official organization responsible for protecting the Borough from fire and for fighting fires within the Borough.

§602. Fire Chief and Assistant Fire Chiefs.

(a) At the first regular meeting of council of January of each year, council shall appoint from among the members of the White Haven Fire Company a "Fire chief", who shall be a resident and a property owner in the Borough.

(b) Council shall also appoint at least one assistant fire chief to be known as the "First Assistant Fire Chief" and may also appoint additional assistant fire chiefs if Council deems it necessary for the efficient operation of the Fire Company. Any qualified member of the Fire Company may be appointed an assistant fire chief and he/she need not be a resident or property owner in the Borough.

§603. Authorized Activities of Fire Company Members. In accordance with the requirements of Section 104 of the Workmen's Compensation Act, as amended, which includes members of volunteer fire companies as employees "while performing any other duties of such companies or fire departments authorized by such cities, boroughs, incorporated towns and townships," the borough authorizes the members of the White Haven Fire Company to engage in the following activities, in addition to actually fighting fires and going to or returning from a fire:

(1) Answer any type of fire alarm or call, whether general alarm, private call or investigation, or fire report or emergency call of any type, inside or outside the limits of the Borough;

(2) Engage in any type of drill, training, ceremonial, practice, test or parade when duly called or authorized by the Fire Chief;

(3) Engage in the performance of any duty or activity authorized by the Fire Chief;

(4) Engage in fund raising activities such as fairs, carnivals, bingo, banquets, barbecues, and other similar fund raising activities the Fire Company officers deem necessary for the efficient operation of the Fire Company;

(5) Participate in mutual aid and firemen's training schools with its fire equipment; or

(6) Attend conventions, meetings and civic functions of the type customarily attended by and participated in by Volunteer Fire Company members without taking along its fire equipment.

Editorial Note: This Ordinance is Ord. No. 5-1983, 10/26/83, except that subsection 5(a) through (d) has been deleted since the Fire Company does not deputize bystanders to assist in emergencies.