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PART 1

OUTDOOR BURNING

§6-101. Title

This Part shall be known as “Outdoor Burning Regulations”.

§6-102. Definitions

The following words, terms and phrases, when used in this Part, unless the context clearly indicates otherwise, shall have the following meanings.

Barbecue Grill: A solid fuel or gas-fed open flame device designed specifically for outdoor cooking. Such devices are limited to charcoal and wood burners, natural or propane gas grills, and smokers used for slow cooking foods.

Bonfire: An outdoor fire utilized for permitted ceremonial purposes, which has a total fuel area of more than three (3) feet in diameter and two (2) feet in height.

Burning: The act of consuming by fire; to flame, char, scorch or blaze. As used in this Ordinance, smoldering shall have the same meaning as burning, and any smoldering shall be deemed a burning.

Chimenea: A free-standing front-loading fireplace or oven with a bulbous body and a vertical smoke vent or chimney.

Combustible Material: Any substance that may ignite and burn.

Firewood: Clean, dry seasoned wood cut to length for the purpose of being burned in permitted outdoor fires.

Open Burning: The ignition of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares and similar devices associated with safety, recreational fires, or use of portable outdoor fireplaces, chimeneas and barbecue grills. For the purpose of this definition, a chamber shall be regarded as “enclosed” when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

Outdoor Fireplace: An outdoor structure of brick, stone or metal for an open fire.

Outdoor Furnace: Any equipment, device, apparatus or structure or any part thereof which is installed, affixed or situated outdoors for the purpose of combustion of any type of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space or water source. Outdoor furnaces are not regulated by this Ordinance, but rather by Ordinance #530, as amended.

Portable Outdoor Fireplace: A movable, outdoor fireplace, such as a chimenea, fueled by firewood, charcoal, propane or natural gas that maintains the fire above any surface and may be constructed of steel, concrete, clay or other noncombustible material.

Recreational Fire: An outdoor fire burning firewood where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace or barbecue grill and has a total fuel area of three

(3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purpose.

Refuse: The collective term applying to all garbage, rubbish, debris and other waste materials of any type including, but not limited to, plastics, rubber, roofing, siding, yard waste, furniture, leaves, food products and other materials intended for disposal.

Yard Waste: Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery and any other vegetative material.

§6-103. Open Burning Forbidden

Open burning for any purpose, including the destruction of refuse, the conduct of a salvage operation, or the disposal of construction materials is strictly forbidden.

§6-104. Regulations Controlling Permissible Outdoor Burning

A. General Requirements

1. Bonfires, recreational fires and fires in portable outdoor fireplaces shall be constantly attended by an adult until the fire is extinguished. A means of extinguishment shall be immediately available.
2. No fire may be ignited using incendiary, flammable or combustible liquid not manufactured for such purpose.
3. No fire shall be ignited or maintained within ten (10) feet of a property line or public sidewalk or street.

B. Regulations for Bonfires

1. A bonfire shall not be conducted within fifty (50) feet of a structure or combustible material.
2. A bonfire shall not be conducted without a permit issued by the Borough of Ebensburg.
3. Once ignited, firewood only may be burned.

C. Regulations for Recreational Fires

1. Recreational fires shall not be constructed within twenty-five (25) feet of a structure or combustible material.
2. Once ignited, firewood or charcoal only shall be burned.
3. Recreational fires shall be confined within a fire ring made of concrete or other non-combustible material, not exceeding three (3) feet in diameter.
4. Recreational fires shall not be burned between 12:00 midnight and 12:00 noon.

D. Regulations for Portable Outdoor Fireplaces

1. Portable outdoor fireplaces shall be utilized in accordance with the manufacturer's instructions, and shall not be operated within fifteen (15) feet of a structure or combustible material.
2. Once ignited, firewood, charcoal, propane or natural gas only shall be burned.

E. Regulations for Barbeque Grills

1. Barbeque grills shall be utilized in accordance with the manufacturer's instructions, and shall not be operated on any balcony.

§6-105. Exceptions

The following are exempted from the provisions of this Part:

- A. When specifically authorized by the Borough Manager, and in conjunction with and in compliance with applicable State and Federal regulations for prevention or control of disease and pests.
- B. Any fire set for the purpose of instructing personnel in firefighting, when approved by the Department of Environmental Protection's Regional Air Quality Program office.
- C. Any fire set by Borough personnel or with the authorization of Borough personnel in conjunction with a borough-sponsored or school-sponsored event or ceremony.

§6-106. Temporary Bans

The Borough Manager or designee may establish a temporary ban on all types of outdoor burning whenever such action is deemed to be in the public interest due to air quality, weather or other conditions. All outdoor burning shall be prohibited when a ban is imposed by the Commonwealth or the County.

§6-107. Enforcement, Violations and Penalties

The provisions of this Part shall be enforced by the Ebensburg Borough Police Department. Any person who violates any provision of this Part shall be issued a Local Law Citation with a fine in an amount established from time to time by Resolution of Ebensburg Borough Council.

In the event the fine prescribed by the Local Law Citation is not paid in a timely manner as prescribed by the Local Law Citation, the violation shall be deemed a summary offense, and any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

§6-108. Extinguishment

The Police Department shall issue orders requiring persons to cease unlawful open burning, requiring said persons to immediately extinguish such burning. In the event that said persons are unable or unwilling to extinguish the burning, the Police Department shall order the Fire Department to respond and extinguish said burning.

(Ord. 433, 9/26/1994, §2; as amended by Ord. 494, 11/27/2000; as repealed and replaced by Ord. 654, 9/28/2020)

PART 2

SMOKING

§6-201. Definitions

For purposes of this Part, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BOROUGH – the Borough of Ebensburg, located in Cambria County.

COUNCIL – the elected Council members of the Borough of Ebensburg acting on behalf of said Borough.

PERSON – any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC BUILDING AND PLACES OF PUBLIC ASSEMBLAGES – are as hereinafter enumerated and specified.

SMOKING – the possession of a lighted cigarette, cigar, pipe or other lighted smoking equipment.

USE OF TOBACCO – tobacco use includes smoking or use of smokeless tobacco in any form.

(Ord. 422, 10/26/1992, §1)

§6-202. Public Buildings and Places of Public Assemblage

Public buildings and places of public assemblages are as hereinafter designated:

- A. The Central Cambria Middle School building.
- B. Every other public place or place of public assemblage where the persons in authority designate such area as being a no smoking area and place proper placards as hereinafter required.

(Ord. 422, 10/26/1992, §2)

§6-203. Violation by Person Having Control

It shall be unlawful for any person or his/her agent, having control or being responsible for having authority as to any public building or place of public assemblage, to knowingly permit a violation of this Part.

(Ord. 422, 10/26/1992, §3)

§6-204. Placarding Required

Every person or his/her agent, having control of public buildings and places of public assemblage as herebefore specified, shall conspicuously display upon the premises a sign reading "SMOKING AND THE USE OF TOBACCO PROHIBITED BY LAW." Such sign shall be at least 144 square inches in area.

(Ord. 422, 10/26/1992, §4)

§6-205. Violation of Sign

No person shall smoke or use tobacco in any properly placarded public building or place of public assemblage (as hereinbefore designated as such), nor shall any person remove any placard required to be erected by or under the authority of this Part.

(Ord. 422, 10/26/1992, §5)

§6-206. Exempted Areas

Smoking shall be permitted in areas as exempted by the Fire and Panic Act, Act of April 27, 1927, P.L. 465, No. 299, as amended, 1988, December 21, P.L. 1315, No. 168 §2, 35 P.S. §1230.1(d).

(Ord. 422, 10/26/1992, §6)

§6-207. Placing Lighted Objects Close to Combustible Matter

No person shall throw or place hot or burning substance or objects such as cigars, cigarettes or the contents of a burning pipe, upon or in close proximity to any public or private premises, object or structure, or in any public street or place where there is material or condition which is combustible or liable to damage by heat, fire or explosion.

(Ord. 422, 10/26/1992, §7)

§6-208. Penalties

Any person, firm or corporation who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

(Ord. 422, 10/26/1992, §1; as amended by Ord. 424, 8/3/1993, §1; and by Ord. 494, 11/27/2000)

PART 3

FIRE DEPARTMENT

§6-301. Authorization to Act

In addition to the normal firefighting duties of the members of the Dauntless Fire Company and the activities as set forth in the aforesaid acts, which activities are hereby authorized; the members of the Dauntless Fire Company are authorized to:

- A. Answer any type of fire, alarm or call, whether general fire alarm, private call or investigation of fire, report or emergency call of any type inside or outside Ebensburg Borough.
- B. Engage in any type of drill, training, ceremonial, practice, test or parade when duly called or authorized by a proper officer or officers of the Dauntless Fire Company.
- C. Engage in the performance of any duty authorized by a proper officer or officers of the Dauntless Fire Company.
- D. Participate in pumping contests at State, County and local conventions as authorized by a proper officer or officers of the Dauntless Fire Company.
- E. Participate in fund raising and fund solicitation programs, including door to-door canvassing for the annual fund drive, upon proper authorization by a proper officer or officers of the Dauntless Fire Company.
- F. Participate in the Cambria County Fair as requested.
- G. Other fire company functions, as authorized by officers of the Dauntless Fire Company.
- H. Subject to the above provisions, this Part shall not be otherwise construed to expand, extend or enlarge the coverage provided by the Workers Compensation Act of Pennsylvania.

(Ord. 399, 1/28/1985, §1; as amended by Ord. 494, 11/27/2000)

§6-302. Authorization to Perform

In keeping with the aforesaid provisions of this Part, the members of Dauntless Fire Police are authorized to engage in the performance of any duty authorized by any officer or officers of the Dauntless Fire Company and/or the Ebensburg Borough Chief of Police or, if none, of a member of the Pennsylvania State Police in accordance with 35 P.S. §§1201-1203 inclusive.

(Ord. 399, 1/28/1985, §2)

§6-303. Notification

Members of the Fire Company shall notify the workers' compensation insurance carrier of all activities in which they intend to participate to insure compensation coverage. Notice of such activities shall also be provided to Borough Council by not later than January 15 of each year.

(Ord. 399, 1/28/1985, §3; as added by Ord. 455, 10/28/1996)

§6-304. Reimbursement for Services

- A. The Borough of Ebensburg hereby authorizes the Dauntless Volunteer Fire Company to collect from persons who use their services as a result of a call from that person using the said services a sum sufficient to reimburse the said fire company in full for the time and effort spent by the said volunteer agency.

- B. The said Borough shall have the right to ask for reimbursement where services are rendered by the said Borough under similar circumstances at the request of a party.
- C. The Borough shall have the right, in the event that the said payment is not made, to pursue these remedies in the Court of Common Pleas of Cambria County and to turn the successful completion of these processes over to the respective company which had rendered the services.
- D. For purposes of this Part, the charges for use of Borough and Dauntless Volunteer Fire Company emergency services equipment, material and personnel shall be established by the Board of Trustees of the Dauntless Volunteer Fire Company.

(Ord. 466, 12/15/1997, §§1-4)

§6-305. Recognition of Firemen's Relief Association

- A. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Borough.

Relief Fund Association of the Dauntless Fire Company

- B. The above named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.
- C. The above named association of the Borough is designated the proper association(s) to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(Ord. 105, 1/26/1931; as revised by Ord. 494, 11/27/2000)

§6-306. Certification to Auditor General

The Borough Council shall annually certify to the Auditor General of the Commonwealth, the name(s) of the active associations and the percentage of service they contribute to the protection of the Borough. Such certification shall be on forms prescribed by the Auditor General.

(Ord. 105, 1/26/1931; as revised by Ord. 494, 11/27/2000)

§6-307. Annual Appropriation

There is annually appropriated from the Borough Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, §701 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

(Ord. 105, 1/25/1931; as revised by Ord. 494, 11/27/2000)

PART 4

FIRE INSURANCE PROCEEDS

§6-401. Use of Fire Insurance Proceeds

- A. 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 the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Borough Treasurer 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 (d) of the Act.
- B. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Borough has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Borough Secretary/Treasurer shall immediately render a bill for such work, if he/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 shall furnish a certificate within 14 working days after the request, to the insurer, a certificate (or at his/her discretion an oral notice confirmed in writing) either:
1. Stating that there are no unpaid municipal claims or municipal expenses against the property; or,
 2. 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 (A) of this Section, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection (3) hereof.

- C. When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this Section, or where the 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:
1. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.
 2. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, 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 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.

3. Upon receipt of the above-described portion of the insurance proceeds, the Treasurer 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 Borough 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 Borough in connection with such removal, repair or securing or any proceedings related thereto; and,
 - (2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Borough and that the procedures under this subsection shall be followed.
 - (3) After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough in excess of that required to pay the municipal expenses; provided, the Borough has not commenced to remove, repair or secure the building or other structure, in which case the Borough will complete the work.
 - (4) Pay to the Secretary/Treasurer, for reimbursement to the Borough general fund, the amount of the municipal expenses paid by the Borough.
 - (5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Secretary/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 Borough.
 - (6) Nothing in this Section shall be construed to limit the ability of the Borough 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 Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem responsible.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

§6-402. Limits of Liability

Nothing in this Ordinance 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 Ordinance or to make this Borough, any Borough official, a municipality or public official 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. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

§6-403. Insurance Company Rights Reserved

An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structure removal liens or removal expenses incurred by the Borough shall have a full benefit of such payment including all rights of subrogation and of assignment.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

§6-404. 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. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

§6-405. Notification of Pennsylvania Department of Community and Economic Development.

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

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

§6-406. 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 a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day on which an offense shall continue shall be deemed a separate offense.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)