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## ARTICLE I

### FIRE AND CRIME ALARMS

#### Section 101. Definitions

For the purposes of this Article the following terms are defined as follows.

- A. **ALARM** – A communication indicating or warning that a crime, fire or other emergency situation warranting immediate action by the Borough Police or local fire companies has occurred or is occurring.
- B. **ALARM DEVICE** – A privately owned and operated electronic, electrical, mechanical or similar device designed to transmit an alarm by wire, telephone, radio, audible signal (bell, siren or buzzer) or other means to the Police, Fire Department or any other person or firm who or which is instructed to notify the Police or Fire Department or any person who is within the sound transmission distance limits of such an audible signal.
- C. **FALSE ALARM** – An alarm (excluding those operated by internal alarm devices) to which the police or local fire companies respond, resulting from the activation of an alarm device when it appears that a crime, fire or other emergency warranting immediate action by the Police or local fire companies has not occurred at the premises when the alarm was transmitted.
- D. **INTENTIONALLY FALSE ALARM** – A false alarm resulting from the intentional activation of an alarm device by an individual under circumstances where the individual has no reasonable basis to believe that a crime, fire or other emergency warranting immediate action by the Police or local fire companies has occurred or was occurring.
- E. **PERSON** – An individual, corporation, partnership, incorporated association or other similar entity.

Ord. 2000-2, 2/1/2000, §1.

#### Section 102. Operational Standards

- A. Except in the case of fire, smoke and personal safety alarm devices, an alarm device shall be designed so that a thirty (30) second delay occurs between the time the alarm devices receives a triggering stimulus and the alarm device transmits an alarm.
- B. If an alarm device is designed to cause an exterior bell, siren or sound-making device to be activated on or near the premises on which the alarm device is installed at the time it gives an alarm, said alarm device shall be signed to

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deactivate the bell, siren or other sound-making device after twenty (20) minutes of operation.

- C. At the time of installation all alarm devices shall meet the applicable standard of the Underwriters Laboratories and/or the National Fire Protection Association, and/or other recognized industry standards.
- D. The sensory mechanism used in connection with an alarm device must be adjusted to suppress false indications of fire or intrusion, so that the alarm device will not be activated by impulses due to transient pressure change in water pipes, short flashes of light, wind noises such as the rattling or vibrating of doors and windows, vehicular noises adjacent to the premise, or other forces unrelated to genuine alarm situations.
- E. The alarm device must be maintained by the owner or lessee in good repair to assure reliability of operation, and to fail to do so is unlawful and shall constitute violation of this Article, subject to the penalties set forth herein.

Ord. 2000-2, 2/1/2000, §2.

### **Section 103. Intentional False Alarms**

It shall be unlawful to cause an Intentional False Alarm and to do so shall constitute a violation of this part subject to the penalties set forth herein.

Ord. 2000-2, 2/1/2000, §3.

### **Section 104. False Alarm Charges**

- A. The owner or lessee of an alarm device shall pay to the Township of Ontelaunee a charge for each false alarm emanating from his alarm device as follows:

1.	First False Alarm	Warning
2.	Second through Fourth False Alarm	\$ 25.00
3.	Fifth through Ninth False Alarm	\$ 50.00
4.	Tenth or Subsequent False Alarm	\$100.00

- B. When a false alarm occurs, the Police Chief, within ten (10) days from the date of each false alarm, shall notify the owner or lessee of the alarm device from which the false alarm emanated that a False Alarm Charge is due and the amount thereof, if any. Such notice shall be in writing and mailed to the owner or lessee at his last known address by regular mail, postage prepaid. Failure of the Police Chief to mail notice of assessment of a False Alarm Charge within ten (10) days

from the occurrence of a false alarm shall preclude the Township from assessing a False Alarm Charge for said False Alarm.

- C. A False Alarm Charge shall be due and payable at the office of the Township Secretary thirty (30) days from the date of the mailing of the notice of assessment of the False Alarm Charge.
- D. The Township Secretary shall, within thirty (30) days of receipt of payment of a False Alarm Charge, pay the False Alarm Charge to the Fire Company or Police Department which has notified the Township that it was the primary respondent to the False Alarm for which the charge was levied.
- E. Failure of an owner or lessee to pay a False Alarm Charge on or before the due date shall constitute an unlawful act and a violation of this Article, subject to the penalties set forth herein.

Ord. 2000-2, 2/1/2000, §4.

**Section 105. Penalties**

See Chapter 4, Article IV entitled “Civil/Criminal Enforcement Procedure”.

Ord. 2000-2, 2/1/2000, § 5; superseded by Ord. 2001-2, 7/12/2001.



## ARTICLE II

### FIRE INSURANCE PROCEEDS

**Section 201. Certificate Verifying No Delinquent Taxes, Assessments, Penalties, User Charges, etc.**

No insurance company, association or exchange doing business in this Commonwealth shall pay a claim for a named insured for fire damage to a structure located within the Township 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 insurance company, association or exchange is furnished with a certificate from the Township pursuant to Section 202 and unless there is compliance with Section 203 procedures.

Ord. 2011-3, 8/15/2011, §1.

**Section 202. Certificate of Insurance**

- A. A Township's Treasurer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the insurance company, association or exchange and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a loss report of the claim, furnish the insurance company, association or exchange either of the following within fourteen (14) days of this request:
1. A certificate or, at the Township Treasurer's discretion, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the Treasurer's certificate or verbal notification, the Township has not certified any amount as total costs incurred by it for the removal, repair or securing of a building or other structure on the property.
  2. A certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of this date, the amount of the total costs, if any, certified to the Township's Treasurer that have been incurred by the Township for the removal, repair or securing of a building or other structure on the property. For this purpose, the Township shall certify to the Treasurer the total amount, if any, of these costs, including engineering, legal and administrative costs. A tax assessment, penalty or user charge shall become delinquent at the time and on the date a lien could otherwise have been filed against the property by the Township under applicable law.
- B. Upon the receipt of a certificate, pursuant to Section 202.A.1, the insurance company, association or exchange shall pay the claim of the name insured in

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accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. For this type of loss, the insurance company, association, exchange, insured property owner and Township shall follow the procedures set for the in Section 203.

- C. Upon the receipt of a certificate and bill pursuant to Section 202.B the insurance company, association or exchange shall return the bill to the Treasurer and transfer to the Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. The Township shall receive the amount and apply or credit it to the payment of the items shown in the bill.

Ord. 2011-3, 8/15/2011, §2.

### **Section 203. Transfer of Proceeds and Escrow**

- A. When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the Township's Treasurer in the aggregate Two Thousand Dollars (\$2,000) for each Fifteen Thousand Dollars (\$15,000) and each fraction of that amount of a claim, or, if at the time of a loss report the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the Township shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer and the Township's Treasurer shall return the amount of the fund in excess of the estimate to the named insured if the Township has not commenced to remove, repair or secure the building or other structure.
- B. Upon receipt of proceeds by the Township, the Treasurer shall place the proceeds in a separate escrow fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Township. When transferring the funds as required in this Section, an insurance company, association or exchange shall provide the Township with the name and address of the named insured, whereupon the Township shall contact the named insured, certify that the proceeds have been received by it and notify the named insured that the procedures under this Section shall be followed.



Ord. 2011-3, 8/15/2011, §3.

**Section 204. Release of Escrow**

The fund shall be returned to the named insured, less any interest earned by the Township, when repairs, removal or securing of the building or other structure have been completed and the required proof received by the Treasure if the Township has not incurred any costs for repairs, removal or securing, including engineering, legal and administrative costs. If the Township 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 Township shall transfer the remaining funds, less any interest, to the named insured. Nothing shall be construed to limit the Township's ability to recover any deficiency. Further, nothing shall be construed to prohibit the Township and the named insured from entering into other reasonable disposition of the damaged property has been negotiated.

Ord. 2011-3, 8/15/2011, §4.

**Section 205. Proof of Payment**

Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with Section 203 is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange.

Ord. 2011-3, 8/15/2011, §5.

**Section 206. Excess Proceeds Liability**

Nothing 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 Section or to make the Township or a public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens of expenses than as provided.

Ord. 2011-3, 8/15/2011, §6.

**Section 207. Benefit of Payment**

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

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Ord. 2011-3, 8/15/2011, §7.

**Section 208. Penalties and Remedies for Violations**

- A. Any person, firm or corporation violating these provision shall pay a fine of up to One Thousand Dollars (\$1,000.00) and costs, to be recovered in the Township's name before a District Justice. In default of payment, the person shall be imprisoned for a period of not more than thirty (30) days.
- B. The Township may revoke any permit issued to the any person, firm or corporation violating these provisions.
- C. The imposition of penalties shall not preclude the Township from instituting an appropriate action or proceeding to prevent the performance of work or acts violating these provisions, or to restrain, correct, abate a violation or seek relief by a complaint in equity.

Ord. 2011-3, 8/15/2011, §8.

**Section 209. Notice**

The Township Secretary shall give notice of this Ordinance with an executed copy to the Department of Community Affairs, also known as the Department of Community and Economic Development, along with the name, position and phone number of the municipal official responsible for Ordinance compliance.

Ord. 2011-3, 8/15/2011, §9.

## ARTICLE III

### OPEN FIRES AND BURINING

#### Section 301. Title

This Ordinance shall be known and may be referred to and cited as the “Ontelaunee Township Open Fire and Burning Ordinance.”

Ord. 2013-1, 3/7/2013, §2.

#### Section 302. Definitions

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

- A. **FIRE PIT** – A man made appliance or structure which uses wood, charcoal or propane as the primary fuel source and is located outdoors for the purpose to cook food outdoors.
- B. **GARBAGE** – All animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
- C. **LEAF WASTE** – Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.
- D. **OPEN FIRE** – A fire in which any material is burned outdoors including, but not limited to, an outdoor brick oven, outdoor cooking grill, outdoor fire place, fire pit or smoker.
- E. **OUTDOOR BRICK OVEN** – A man made appliance or structure which uses wood, charcoal or propane as the primary fuel source and is located outdoors for the purpose to cook food outdoors.
- F. **OUTDOOR COOKING GRILL** – A man made appliance which uses charcoal, or propane as the primary fuel source and is designed and used for the purpose to cook food outdoors.
- G. **OUTDOOR FIREPLACE** – A man made appliance that is located outside which uses wood as the primary fuel source for the expressed purpose of heating a residential or commercial building.
- H. **OUTDOOR WOOD BOILERS** – A man made appliance that is located outside which uses wood as the primary fuel source for the expressed purpose of heating a residential or commercial building.
- I. **PERSON** – Any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

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- J. **REFUSE** – Garbage, rubbish and trade waste.
- K. **RUBBISH** – Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.
- L. **SALVAGE OPERATION** – Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material including but not limited to metals, chemicals, chipping containers or drums.
- M. **SMOKER** – A man made appliance which uses wood, charcoal or propane as the primary fuel source which is located outdoors for the purpose of smoking and curing food.
- N. **TRADE WASTE** – All 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 and other petroleum products, chemicals, cinders and other forms of solid or liquid waste material, provided the “trade waste” shall not include any coal refuse associated with the mining or preparation of coal.

Ord. 2013-1, 3/7/2013, §3.

### **Section 303. Prohibition**

- A. All open fires except those specifically permitted by Section 304 of this Ordinance are hereby strictly prohibited within the Township of Ontelaunee.
- B. The burning of leaf waste is prohibited in all zoning districts within the Township of Ontelaunee.
- C. No person shall, within the Township of Ontelaunee, ignite or feed an open fire for the destruction of refuse or in the conduct of salvage operation in any public or private place outdoor any building or cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any property under his control outdoor of any building.
- D. Burn during a Fire Ban Emergency as proclaimed by Berks County Emergency Management or the Ontelaunee Township Board of Supervisors.

Ord. 2013-1, 3/7/2013, §4.

### **Section 304. Exceptions**

- A. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
  - 1. The prevention of a fire hazard which cannot be abated by other means.
  - 2. The protection of public health and welfare.
  - 3. The purpose of fire fighting training by the Township or designated fire fighting organizations.
- B. Outdoor fires contained in an outdoor cooking grill are permitted within all zoning districts of Ontelaunee Township.
- C. Fires within a fire pit, outdoor brick oven, outdoor fireplace or smoker may be set for the express purpose of outdoor cooking, smoking and curing of food for residential purposes only provided that the following requirements are met:
  - 1. The fire pit, outdoor brick over, outdoor fireplace or smoker is located a minimum of thirty feet (30') from all property lines.
  - 2. The fire pit, outdoor fireplace or smoker is located a minimum of thirty feet (30') from all structures located on the property.
  - 3. The outdoor brick oven is located a minimum of thirty feet (30') from all structures located on the property, unless the structure(s) closer than thirty feet (30') is/are constructed for a reduced clearance combustibles and approved per the Pennsylvania Uniform Construction Code.
  - 4. All fires within a fire pit, outdoor brick oven, outdoor fireplace or smoker brick oven must be maintained and supervised by an adult at all times.
  - 5. All wood used as a primary fuel source for a fire must be well seasoned.
- D. Open fires may be set in a furnace or incinerator permitted for the burning of trade waste by the Pennsylvania Department of Environmental Protection.
- E. Outdoor wood boilers are permitted within all zoning districts provided that the following requirements are met:
  - 1. The outdoor wood boiler is located a minimum of thirty feet (30') from all property lines and structures.
  - 2. The chimney of the outdoor wood boiler must be a minimum of twelve feet (12') high measured from the connection point of the chimney to the outdoor wood boiler to the top of the spark arrestor.
  - 3. A spark arrestor must be installed on the top of the chimney.
  - 4. Compliance with the Pennsylvania Uniform Construction Code is required.

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- F. Open fires for burning everything except leaf waste may be set for controlled burning for agricultural purposes in the A-1, A-2 and A-3 Agricultural Zoning Districts subject to the following regulations:
1. It shall be unlawful to allow any fire within thirty feet (30') of any building or property line.
  2. No fire shall be ignited, set, started, fed, permitted to burn or maintained where such fire may endanger any structure, building or other property.
  3. All fires must be maintained and supervised by an adult.
  4. No fire shall be permitted to burn or smolder anywhere within the Township of Ontelaunee between sunset and sunrise.

Ord. 2013-1, 3/7/2013, §5.

### **Section 305. Fire Ban Emergency**

- A. The Board of Supervisors may declare a fire ban emergency in Ontelaunee Township with or without consultation with the Emergency Management Coordinator and/or fire chiefs of the volunteer fire companies operating within the Township during the period of drought, or other periods of high fire risk to woodlands or property within Ontelaunee Township.
- B. Upon the Board of Supervisors declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the Board of Supervisors.
- C. The Township shall post a notice of the fire ban emergency prominently at the Ontelaunee Township building and issue news releases to all communication media, including radio, television and newspapers.

Ord. 2013-1, 3/7/2013, §6.

### **Section 306. Enforcement**

This Ordinance shall be enforced by the Zoning Officer of Ontelaunee Township.

Ord. 2013-1, 3/7/2013, §7.

### **Section 307. Penalties**

- A. Any person who shall violate any provision of this Ordinance shall upon conviction be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) and in default of payment such person shall be committed to the Berks County Prison for a

period of up to thirty (30) days. Every violation of this Ordinance exists shall be deemed a separate violation and therefore a separate fine.

- B. In addition, a person found guilty of starting or setting a fire shall be required to reimburse any fire company and/or the Township of Ontelaunee for any and all expenses incurred by them in responding to and containing said fire.
- C. Nothing contained herein shall prevent the Township of Ontelaunee from enforcing this Ordinance by equitable, injunctive or other legal remedies.

Ord. 2013-1, 3/7/2013, §8.

**ARTICLE IV**

**FIREWORKS**

**Section 401 Definitions.**

For purposes of this Ordinance, the following terms shall have the meanings set forth herein:

**Animal housing facility.** A roofed structure or facility, or a portion of the facility, used for occupation by livestock or poultry.

**APA 87-1.** The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition.

**Consumer fireworks.**

(1) The term includes any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.

(2) The term does not include devices such as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

**Display fireworks.** As defined in 27 CFR 555.11 (relating to meaning of terms).

**NFPA 1124.** The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

**Township.** Ontelaunee Township, Berks County, Pennsylvania.

**Vehicle.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

**Section 402. Use of Consumer Fireworks.**



- (a) Prohibition. No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of Section 405 (relating to sales locations).
- (b) Permit. Permission shall be given by the Board of Supervisors for displays of display fireworks to be held within the Township. After permission is granted, purchase, possession and use of display fireworks shall be lawful for the use outlined in the permit only. Permits shall not be transferable.
- (c) Application. Applications for permits shall be made in writing on a form provided by the Township, at least forty-five (45) days in advance of the date of the display.
- (d) Fees. The application shall be accompanied by a One Hundred and 00/100 Dollars (\$100.00) per application permit fee, which may be amended from time to time by adoption of a Resolution of the Township Board of Supervisors.
- (e) Limitations. Each use of display fireworks shall be:
- (1) handled by a competent operator at least 21 years of age who demonstrates evidence of fireworks handling and safety training;
  - (2) of a character and so located, discharged or fired as, in the opinion of the Chief of the Union Fire Company No. 1 of Leesport after proper inspection, to not be hazardous to property or endanger any person.
- (f) Insurance. The Board of Supervisors shall require a permittee to carry insurance in an amount not less than \$1,000,000 conditioned for the payment of all damages which may be caused to a person or property by reason of the use of display fireworks and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.
- (g) Suspension of Permit and Dispatch of Fire Company. The Chief of the Union Fire Company No. 1 of Leesport may suspend any permit issued under this Ordinance due to draught, dry conditions, high winds, or any other factor reasonably related to the public safety. The said Chief may, at his discretion, dispatch fire department members and/or equipment, and fire police, to the scene of any permitted fireworks display. Where any such deployment occurs, the permittee shall assist the fire company in defraying the costs of such services.
- (h) Notification of Neighbors. Within three (3) days after a permit is issued by the Township, the permittee shall file an affidavit with the Township Secretary indicating the permittee has mailed and/or hand delivered a written notice of the time and place of the fireworks display to each owner of property located within one-half (1/2) mile of any boundary of the property on which the fireworks display is to be performed.
- (i) Time. All permit fireworks displays shall be finished by 11:00 p.m.

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(j) Number of Permits. No more than five (5) permits per calendar year may be issued to the same permittee. No more than five (5) permits per calendar year may be issued for fireworks displays on a single property.

(k) Permit extension. The Township may grant an extension for a permit issued under this section to a new date for displays canceled due to unfavorable weather or other circumstances beyond the control of the permittee.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

### **Section 403. Use of Consumer Fireworks.**

(a) Conditions. A person who is at least 18 years of age and meets the requirements of this article may purchase, possess and use consumer fireworks.

(b) Prohibitions. A person may not intentionally use consumer fireworks:

(1) On private property or on public property, including, but not limited to, streets, parking lots, sidewalks and parks, without the express permission of the owner or entity that controls the property.

(2) Within, directed at or directed from a vehicle or building.

(3) Directed at another person.

(4) While the person is under the influence of alcohol, a controlled substance or another drug.

(5) Within 150 feet of a building or vehicle, whether the building or vehicle is owned by the user of the consumer fireworks.

(6) Within one thousand feet (1000') of a structure or dwelling utilized for a nursing home, occupied day care, group home, or health service facility, and similar uses as defined in the Ontelaunee Township Zoning Ordinance.

(7) In a manner that will result in debris falling on any property not owned by person discharging fireworks.

(8) During a burning ban declared in the Township.

(9) Between the hours of 10:00 p.m. and 10:00 a.m., except:

(i) On July 2, 3 and 4 and December 31, when consumer fireworks may be used until 1:00 a.m. the following day; and

(ii) When July 4 falls on a Tuesday, Wednesday or Thursday, consumer fireworks may be used until 1:00 a.m. on the immediately preceding and following Friday and Saturday.

(c) Conditional use. No person may use consumer fireworks within 150 feet of an animal housing facility or a fenced area designed to confine livestock owned or managed by another person. If a person uses consumer fireworks at a distance of 150 to 300 feet from an animal housing facility or fenced area designed to confine livestock owned or managed by another person, the user of consumer fireworks shall notify in writing the owner or manager of the livestock at least 72 hours in advance of the use that consumer fireworks will be used in the area.

(d) Any person discharging consumer fireworks shall be responsible for cleaning up and removing any debris from the discharge of consumer fireworks from their property and any other property upon which the debris falls

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

**Section 404. Agricultural purposes.**

(a) Authorization. The Board of Supervisors may grant permits for the use of display fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(b) Duration of permit. A permit under this section shall remain in effect for the calendar year in which it was issued.

(c) Conditions. After a permit under this section has been granted, sales, possession and use of display fireworks for the purpose mentioned in the permit shall be lawful for that purpose only.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

**Section 405. Sales Location.**

Consumer fireworks shall be sold only from facilities which are licensed by the Department of Agriculture and that meet the following criteria:

(a) The facility shall comply with the provisions of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

(b) The facility shall be a stand-alone permanent structure.

(c) Storage areas shall be separated from wholesale or retail sales areas to which a purchaser may be admitted by appropriately rated fire separation.

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- (d) The facility shall be located no closer than 300 feet from a facility selling or dispensing gasoline, propane or other flammable products.
- (e) The facility shall be located at least 2,500 feet from another facility licensed to sell consumer fireworks.
- (f) The facility shall have a monitored burglar and fire alarm system.
- (g) Quarterly fire drills and preplanning meetings shall be conducted as required by the primary fire department.
- (h) The facility shall comply with the requirements of NFPA 1124.
- (i) The sale of consumer fireworks may be conducted through online, mail-order or other transaction, but delivery of consumer fireworks to a purchaser shall take place at a facility licensed by the Department of Agriculture.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

### **Section 406. Conditions for Locations for Sale of Consumer Fireworks.**

A facility licensed by the Department of Agriculture shall be exclusively dedicated to the storage and sale of consumer fireworks and related items, and the facility shall operate in accordance with the following rules:

- (a) There shall be security personnel on the premises for the seven days preceding and including July 4 and for the three days preceding and including January 2.
- (b) No smoking shall be permitted in the facility.
- (c) No cigarettes or tobacco products, matches, lighters or any other flame-producing devices shall be permitted to be taken into the facility.
- (d) No minors shall be permitted in the facility unless accompanied by an adult, and each minor shall stay with the adult in the facility.
- (e) All facilities shall carry at least \$2,000,000 in public and product liability insurance.
- (f) A licensee shall provide its employees with documented training in the area of operational safety of a facility. The licensee shall provide to the Department of Agriculture written documentation that each employee has received the training.
- (g) No display fireworks or federally illegal explosives under 49 CFR 173.54 (relating to forbidden explosives) shall be stored or located at a facility.

(h) No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the facility, and no liquor, beer or wine shall be permitted in the facility.

(i) Emergency evacuation plans shall be conspicuously posted in appropriate locations within the facility.

(j) Written notice shall be conspicuously posted or provided with each purchase of consumer fireworks that provides the conditions and prohibitions for use of consumer fireworks under Section 403 (relating to use of consumer fireworks).

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

**Section 407. Penalties for Violation.**

The following shall apply:

(a) A person using consumer fireworks in violation of the provisions of this chapter for the first offense commits a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$500. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a summary offense and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not more than \$1,000.

(b) A person selling consumer fireworks in violation of the provisions of this chapter for the first offense commits a misdemeanor of the second degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a misdemeanor of the second degree and, upon conviction, in addition to any other penalty authorized by law, shall be punishable by a fine of not less than \$15,000 and a revocation of a license issued by the Department of Agriculture.

(c) A person selling or using display fireworks in violation of the provisions of this chapter for the first offense commits a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$15,000.

(d) A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred to as M-80, M-100, blockbuster, cherry bomb or quarter-stick or half-stick explosive

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devices, in violation of the provisions of this chapter for the first offense commits a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$10,000. A subsequent offense under this paragraph committed within three years of a prior conviction under this paragraph shall constitute a felony of the third degree and, upon conviction, shall, in addition to any other penalty authorized by law, be punishable by a fine of not less than \$15,000.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

### **Section 408. Removal, Storage and Destruction.**

(a) **Authority.** The Pennsylvania State Police, a municipal police officer as defined in 42 Pa.C.S. § 8951 (relating to definitions) who holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training), a sheriff or a deputy or a member of a Pennsylvania Bomb Squad accredited by the Federal Bureau of Investigation and Certified in Hazardous Devices Training shall take, remove or cause to be removed at the expense of the owner all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, used, stored or held in violation of this chapter. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

(b) **Cost recovery.** A Pennsylvania Bomb Squad accredited by the Federal Bureau of Investigation and Certified in Hazardous Devices Training shall attempt to recover any costs associated with the removal, storage or destruction of consumer fireworks, display fireworks or combustibles under subsection (a) from the owner of the consumer fireworks. Reimbursement under subsection (c) shall only be available when the costs under this subsection cannot be recovered.

(c) **Reimbursement.** If the costs under subsection (b) cannot be recovered, a Pennsylvania Bomb Squad accredited by the Federal Bureau of Investigation and Certified in Hazardous Devices Training may seek reimbursement from the office of the State Fire Commissioner for the actual costs associated with the removal, storage or destruction of consumer fireworks, display fireworks or combustibles.

Ord. 2019-3, July 2, 2019, §1; as amended by Ordinance 2023-5, September 7, 2023, §1.

## ARTICLE V

### EMERGENCY SERVICE COST REIMBURSEMENT

#### **Section 501. Short Title.**

This Ordinance shall be known and may be cited as “The Township of Ontelaunee Emergency Service Cost Reimbursement Ordinance”.

Ord. 2020-5, November 5, 2020, §1.

#### **Section 502. Definitions.**

The following terms shall have the meanings set forth herein:

**Fire Company:** A volunteer fire department, fire company, ambulance or fire and rescue company, or other emergency responder agency duly organized, acknowledged by and existing in the Township of Ontelaunee to provide emergency services in the Township.

**Emergency Service Provider:** Any volunteer fire company, fire department, ambulance or fire and rescue company, or other emergency responder agency duly organized, acknowledged by and existing in the Township of Ontelaunee to provide emergency services in the Township.

**Person:** An individual, organization, corporation, partnership, government or government agency, department or political subdivision, business, trust, estate, association and any other legal or commercial entity.

**Supervisors:** The Board of Supervisors of the Township of Ontelaunee, Berks County, Pennsylvania.

**Township:** The Township of Ontelaunee, Berks County, Pennsylvania.

Ord. 2020-5, November 5, 2020, §1.

#### **Section 503. Authorization to Recover Fees, Costs and Expenses.**

The Township hereby authorizes Emergency Service Providers to recover the costs of the following, including, but not limited to, fire-fighting materials used and expended, the use of fire trucks, fire engines, rescue equipment and tankers, emergency medical supplies, and hazardous situation abatement materials used and expended in connection with any fire, safety rescue incident or operation, medical emergency, or hazardous situation abatement incident including vehicular accidents, fires and/or medical emergencies occurring within the Township or any other area in which the Emergency Service Provider is authorized by the Township to provide such emergency services.

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Ord. 2020-5, November 5, 2020, §1.

### **Section 504. Schedule of Fees, Costs and Expenses.**

The Emergency Service Provider shall be responsible for establishing a Fee Schedule for any fees, costs, and expenses (collectively “Charges”) contemplated by this Ordinance. The Charges shall be that which is usual, customary and reasonable in the County of Berks and shall not exceed the charges listed on the Billing List as attached hereto and made a part hereof as Exhibit “A”. The Billing List, Exhibit “A”, may be amended from time to time by adoption of a Resolution of the Board of Supervisors.

Ord. 2020-5, November 5, 2020, §1.

### **Section 505. Utilization of Fees.**

All amounts collected by the Emergency Service Providers pursuant to this Ordinance shall be placed into a fund established by each Emergency Service Provider. The funds shall be utilized exclusively for supplies and equipment of the Emergency Service Providers utilized in providing emergency services in the Township or any other area in which the Emergency Service Provider is authorized by the Township to provide such emergency services.

Ord. 2020-5, November 5, 2020, §1.

### **Section 506. Requirement to Pay for Fees, Costs, and Expenses.**

A Person or Persons who receive(s) fire-fighting, rescue, medical or other emergency service, or any combination of those services, shall be liable for the Charges incurred by the Emergency Service Provider in providing said services.

Ord. 2020-5, November 5, 2020, §1.

### **Section 507. Collection of Fees, Costs, and Expenses.**

The Charges shall be recovered directly by the Emergency Service Provider by direct billing or by an attorney, collection service or other agency contracted with and by the Emergency Services Provider for the collection of such sums. In addition to the Charges, the Emergency Service Provider shall also be authorized to collect reasonable interest and administration expenses involved in collecting said Charges.

### **Section 508. Enforcement.**

In the event any insurance carrier or Person fails to pay any bill or invoice within thirty (30) days of the mailing or delivery of such notice of charges, the Emergency Service Provider directly, or any attorney, collection service or other agency contracted with and by the Emergency Service Provider, 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 the Emergency Service Provider, together with any statutory interest, court costs, collection and/or administration fees, and reasonable attorneys' fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate and provided by law.

Ord. 2020-5, November 5, 2020, §1.

**Section 509. Accounting.**

At the request of the Board of Supervisors of the Township, the Emergency Service Provider shall provide the Township an accounting of the Charges including but not limited to the Charges charged and collected, the costs of collection of the Charges billed, the fund into which the Charges were deposited and expenditures from the fund. The Township shall have the right to audit the accounting provided by the Emergency Services Provider or require the Emergency Services Provider to obtain an audit of the Charges and fund and provide the Township with a copy of the audit.

Ord. 2020-5, November 5, 2020, §1.