

Chapter 7

Fire Prevention and Fire Protection

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Part 1**Fire Companies Recognized****§7-101. Fire Companies Recognized.**

The Nesquehoning Hose Company No. 1, the New Columbus Fire Company, and the Hauto Fire Company, organized and existing in the Borough of Nesquehoning, Carbon County, Pennsylvania, are hereby designated as the officially recognized fire companies for the Borough.

(Ord. 2000-3, 6/28/2000, §1)

§7-102. Firemen's Relief Association Recognized.

The Nesquehoning Firemen's Relief Association, organized and existing in the Borough of Nesquehoning, Carbon County, Pennsylvania, is hereby designated as the officially recognized Firemen's Relief Association for the Borough.

(Ord. 2000-3, 6/28/2000, §2)

§7-103. Authorized Activities of the Fire Company.

1. The fire companies recognized by the Borough are hereby authorized to provide such services to the Borough as may be necessary for the protection of property and persons situate therein, which include, by way of example and not of limitation, the extinguishment of fires and prevention of loss of life and property from fire, automobile accidents, medical emergencies, hazardous materials incidents, and other dangerous situations. [*Ord. 2013-1*]

2. The fire companies may also provide nonemergency and public service functions, such as, again by way of example and not of limitation, removing water from property after storms, and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural causes or man-made situations.

3. The fire companies and Firemen's Relief Association may also conduct and participate in such training activities and drills, either within or outside of the Borough, as may be deemed necessary by the officers of the fire companies to maintain proficiency in providing service.

4. The fire companies may also respond to calls and provide service to municipalities outside of the Borough pursuant to mutual aid agreements.

(Ord. 2000-3, 6/28/2000, §3; as amended by Ord. 2013-1, 6/26/2013)

§7-104. Authorized Activities of Members of the Fire Companies.

In addition to actually participating in the activities of the fire companies as authorized above, or in going to or returning from any activities, the members of the fire companies recognize by the Borough are also authorized to do the following things:

A. Engage in any type of drill, training, ceremony, practice, test, or parade when duly called for or authorized by an officer or officers of the fire companies or Firemen's Relief Association.

B. Engage in fund-raising activities for the fire companies when authorized by an officer or officers of the fire companies.

C. Engage in the performance of any other duty or activity authorized by any officer of the recognized fire companies or Firemen's Relief Association.

(Ord. 2000-3, 6/28/2000, §4)

§7-105. Purpose.

The purpose of this Part is to recognize the fire companies as the official fire companies of the Borough and to state additional authorized activities for firefighters for workmen's compensation purposes and to recognize the Firemen's Relief Association as the official Firemen's Relief Association to the Borough.

(Ord. 2000-3, 6/28/2000, §5)

Part 2**Carbon Monoxide Measurement Within Residential Buildings****§7-201. Purpose.**

The purpose of this Part is to establish minimum life safety requirements regarding the detection of carbon monoxide in all residential occupancies within the Borough of Nesquehoning.

(Ord. 2007-3, 10/24/2007, §1)

§7-202. Definitions.

The following words and phrases used in this Part shall have the meanings given to them in this Section, unless the context of the Part clearly indicates otherwise:

Dwelling unit—one or more rooms or areas arranged for the use of one or more individuals, on a permanent or transient basis, for living or sleeping.

Multi-family dwelling unit—a building containing two or more dwelling units.

Occupant—any person, including an owner or operator, over 1 year of age living and sleeping in a dwelling unit.

Owner—any person, who, alone, jointly, or severally with others holds legal or equitable title to any dwelling unit or multi-family dwelling unit.

Premises—a lot, plot, or parcel of land, including the buildings and structures thereon.

(Ord. 2007-3, 10/24/2007, §2)

§7-203. Owner's Responsibilities.

It shall be the responsibility of every owner of real property which contains a dwelling unit or a multi-family dwelling unit within the Borough of Nesquehoning to properly maintain their furnaces, kitchen stoves, hot water heaters, other fuel burning appliances and/or heaters, etc., so that carbon monoxide emissions are kept within safe levels.

(Ord. 2007-3, 10/24/2007, §3)

§7-204. Detecting Carbon Monoxide Levels.

In the event that Fire Department or emergency personnel for Nesquehoning Borough are summoned to respond to a reported carbon monoxide incident they shall use meters capable of detecting carbon monoxide levels to monitor the atmosphere during any suspected carbon monoxide investigation. If amounts in excess of nine parts per million but less than 100 parts per million of carbon monoxide are detected the residence may be declared to contain potentially dangerous carbon monoxide levels and as a result uninhabitable by the Fire Department and/or emergency personnel on scene and as a result all occupants may be ordered to leave the premises until ventilation of the building is completed.

(Ord. 2007-3, 10/24/2007, §4)

§7-205. Location and Shutdown of the Source of the Carbon Monoxide Emissions.

Fire Department or emergency personnel responding to a carbon monoxide incident shall attempt to locate the source of the carbon monoxide emissions. Upon determination of the source, whether it be the furnace or any appliance within the premises, it shall be shut down and its use suspended until repairs are completed to correct the malfunction. Any repair work done to correct any malfunction of a furnace or any other appliances shall be done in accordance with the Uniform Construction Code and subject to inspection by the UCC Inspector. The owner of the property which is the source of carbon monoxide emissions shall be responsible for a fee for said inspection in accordance to a schedule of fees as may be established by Borough Council from time to time by resolution.

(Ord. 2007-3, 10/24/2007, §5)

§7-206. Evacuation of Occupants in the Event of Lethal Readings.

In the event that a reading of 100 parts per million or greater is found at the premises all occupants are to be ordered to leave the premises immediately due to the potentially lethal level of carbon monoxide.

(Ord. 2007-3, 10/24/2007, §6)

§7-207. Evacuation in Multi-family Dwelling Buildings.

In the situation of a multi-family dwelling building and there is a reading between nine and 100 parts per million in any of the adjoining units then all units connected may be ordered to be evacuated until the source of the malfunction is detected and corrected. If the reading is in excess of 100 parts per million in any of the adjoining units then all units connected will be ordered to be evacuated until the source of the malfunction is detected and corrected.

(Ord. 2007-3, 10/24/2007, §7)

§7-208. Requirements of Fire Department or Emergency Personnel.

Fire Department and/or emergency personnel are required to return to the premises before it is occupied to determine if the level of carbon monoxide has reduced to a safe level. When, upon reexamination, the Fire Department or emergency personnel find that the source of the carbon monoxide emissions has not been repaired or the emissions corrected, then the Fire Department officer or emergency personnel shall be authorized to cause such dwelling or structure to be vacated or closed pending repairs.

(Ord. 2007-3, 10/24/2007, §8)

§7-209. Enforcement.

Fire Department, emergency personnel, the Code Enforcement Officer, or any other person designated by the Borough Council to enforce this Part are authorized to make entry into a premises for the purpose of conducting an inspection to determine if carbon monoxide levels are within acceptable safety limits.

(Ord. 2007-3, 10/24/2007, §9)

§7-210. Billing for Responses.

If there are two or more calls to emergency personnel within a 24-hour period for the same location for the presence of gas in the residence and corrective measures have not been implemented to remediate the presence of the gas, then the owner, occupant or agent may be billed by the Borough for the costs of the emergency response.

(Ord. 2007-3, 10/24/2007, §10)

§7-211. Appeals.

Anyone aggrieved by any decision of the Fire Department personnel or emergency personnel relative to this Part shall have a right to appeal to the Borough Council of the Borough of Nesquehoning by sending a request, in writing, within 5 days of the issuance of the decision by the Fire Department or emergency personnel, to the Borough Secretary, requesting a hearing before Council. Borough Council shall have 30 days from the date of receipt of the request to schedule such a hearing and to notify all affected parties of the date and time for the hearing.

(Ord. 2007-3, 10/24/2007, §11)

§7-212. Penalties for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge 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 \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2007-3, 10/24/2007, §12; as amended by Ord. 2013-1, 6/26/2013)

Part 3**Fire Loss Insurance Proceeds Escrow****§7-301. Appointment of Designated Official.**

The Code Enforcement Officer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibility and duties stated herein.

(Ord. 2003-3, 2/28/2003, §I)

§7-302. General.

No insurance company, association, or exchange (hereinafter the "insuring agent") 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 of Nesquehoning (hereinafter the "Borough") where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insuring agent is furnished by the Borough Treasurer with a Borough certificate pursuant to §508(b) of Act 98 of 1992 and unless there is compliance with §508(c) and (d) of Act 98 of 1992, 40 P.S. §638(b), (c), (d), and the provisions of this Part.

(Ord. 2003-3, 2/28/2003, §II)

§7-303. Procedures.

Where pursuant to §508(b)(1)(I) of Act 98 of 1992, 40 P.S. §638 (b)(1)(I), the 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 designated officer of the Borough 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 to be applied such that if the claim is \$15,000 or less, the amount transferred to the Borough shall be \$2,000.

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 Borough from the insurance proceeds the amount specified in the estimate.

C. The transfer of proceeds shall be on 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 the designated officer 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 designated officer 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 which are incurred by the Borough. 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 proceedings related thereto.

(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 designated officer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedure under this Section shall be followed.

(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 designated 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.

(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 Section 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.

(Ord. 2003-3, 2/28/2003, §III)

§7-304. Duties of Borough Council.

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

(Ord. 2003-3, 2/28/2003, §IV)

§7-305. Violations and Penalties.

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

(Ord. 2003-3, 2/28/2003, §V; as amended by Ord. 2013-1, 6/26/2013)

Part 4**Fireworks Displays****§7-401. Permit Required.**

It shall be unlawful for any person, persons, firms, or corporations, amusement parks, fair associations, or any other organizations or groups of individuals, to have or to hold public displays of fireworks, as that term is defined in the Act of May 15, 1939, P.L. 134, as amended, 35 P.S. §1271 *et seq.*, within the limits of the Borough of Nesquehoning, unless a permit therefore is first granted by the Borough as hereinafter provided.

(*Ord. 2006-1, 2/22/2006, §I*)

§7-402. Application for Permit.

1. Any person, persons, firms or corporations, amusement parks, fair associations, or any other organizations or groups of individuals desiring to explode any fireworks, as defined in the above stated Act, in a public display must complete an application for a fireworks display permit and submit the completed application to the Borough at least 20 days in advance of the proposed display.

2. Applications for a fireworks display permit will be available at the Borough administrative offices during normal business hours and must be completed and signed by the applicant or an officer or authorized agent of the applicant.

3. The permit application will contain as a minimum the following:

A. Name, address, telephone number and fax number (if applicable) of the applicant and, if the applicant is an organization, the name, address, telephone number and fax number (if applicable) of the contact person for the organization.

B. Name of the individual or organization that will be responsible for providing the fireworks and detonation.

C. Proposed site and date and time of the fireworks display.

D. Number and kinds of fireworks to be discharged. Displays before a proximate audience require the submittal of device and effect descriptions.

E. The manner and place of storage of such fireworks prior to display.

F. Site plan explaining all structures, structures occupied, overhead transmission lines, streets, parking areas, and areas where spectators for the display will be gathered. The site plan should also contain a symbol defining north and a sketch of the general area where the fireworks will be set off and the area they will be directed along with a designation of where the fireworks will be stored.

G. Letter of permission from the property owner.

H. Pennsylvania Certificate of Registration for Fireworks Displays.

(*Ord. 2006-1, 2/22/2006, §II; as amended by Ord. 2009-5, 8/26/2009*)

§7-403. Review and Approval of the Fire Chief.

1. A site inspection of the proposed site for the fireworks display shall be

conducted by any Fire Chief of any Nesquehoning Fire Department, or his or her designee or the Chief of Police or his or her designee.

2. The Fire Chief, Police Chief, or respective designees, shall determine whether or not the display is a fire hazard to any and all structures in the immediate area of the display.

3. The Fire Chief, Police Chief, or respective designee, shall designate the area where the display will originate from and allow fireworks to be detonated from that area only and shall notify the applicant and the Borough prior to the display as to whether the presence of firefighters and firefighting equipment will be required at the display.

4. The approval of the application by a Fire Chief, Police Chief or respective designee, will be required prior to the issuance of a fireworks display permit by the Borough.

5. Any and all holders of fireworks display permits will be required to notify a Fire Chief, the Chief of Police, or their respective designee, at least 20 days in advance of the display and further notify the Carbon County Communications Center (911) at least 2 days in advance of the display notifying them when and where fireworks will be displayed. Permit holders will be required to notify the Carbon County Communications Center (911) at the conclusion of the display as well.

6. The Fire Chief, Police Chief, or respective designee, will not allow fireworks displays if there is a ban on open burning and/or a declared drought emergency in effect at the time of the notification telephone calls.

(Ord. 2006-1, 2/22/2006, §III; as amended by Ord. 2009-5, 8/26/2009)

§7-404. Insurance and Liability.

1. Applicants shall, at the time of the application, provide a certificate of insurance to the Borough with a minimum limit of insurance of \$2,000,000 and naming the Borough as an additional insured.

2. The permittee shall agree to hold harmless and indemnify the Borough, its officers, agents and/or employees from any liability arising from the display for which the permit is issued. This language shall appear on the permit as issued.

(Ord. 2006-1, 2/22/2006, §IV; as amended by Ord. 2009-5, 8/26/2009)

§7-405. Permit Issuance.

1. The Borough Secretary, or his or her designee, will issue fireworks display permits after approvals by a Fire Chief or the Chief of Police, or their respective designees, have been certified on the application. Permits issued will be valid for 1 calendar year beginning on January 1 of each year and concluding on December 31 of each year.

2. Cost of the permit will be in an amount as established from time to time by resolution of the Borough Council for each display held by the permittee, payable to the Borough prior to the issuance of the permit. [*Ord. 2013-1*]

3. Permits are not transferable.

(Ord. 2006-1, 2/22/2006, §V; as amended by Ord. 2009-5, 8/26/2009; and by Ord. 2013-1, 6/26/2013)

§7-406. Violation and Penalties.

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

(Ord. 2006-1, 2/22/2006, §VI; as amended by Ord. 2013-1, 6/26/2013)

Appendix 7-4-A

Application and Permit for Fireworks Display

APPLICANT INFORMATION:

Name: _____

Address: _____

Phone No. _____ Fax No. _____

(If applicant is an organization, a corporation, or firm, also list the contact person's information)

Name: _____

Address: _____

Phone No. _____ Fax No. _____

FIREWORKS DISPLAY INFORMATION:

Name of individual or organization that will be responsible for providing the fireworks:

Name of the individual or organization that will be responsible for detonating the fireworks:

Proposed site of the fireworks display: _____

Date and time of fireworks display: _____ (date) _____ (time)

Number and kinds of fireworks to be discharged: _____

The manner and place of storage of such fireworks prior to display: _____

APPLICANT MUST ATTACH A SITE PLAN TO THIS APPLICATION:

The applicant hereby agrees to hold harmless and indemnify the Borough, its officers, agents and/or employees from any liability arising from the display for which the permit is issued.

Date: _____ Signature of Applicant: _____

This application has been reviewed and a site inspection has been performed by the Nesquehoning Fire Department by _____ on _____.

THIS APPLICATION IS: **APPROVED:** _____ **DENIED:** _____

Date: _____

Fire Commissioner or designee

This permit is: Approved _____ Denied _____

Date: _____

Nesquehoning Borough Secretary

Part 5**Open Burning****§7-501. Burning Allowed on the Following Days and Times.**

The burning of allowable material in the Borough of Nesquehoning may be done only on the following days and between the following hours:

- A. Monday through Friday from 5 p.m. to 8 p.m.
- B. Saturday from 12 noon to 6 p.m.

(Ord. 2008-1, 4/23/2008, Art. 1)

§7-502. Materials Allowed and Not Allowed.

1. Included in allowable material shall be limbs or branches from trees and brush, grass clippings and leaves.

2. Material not allowed to be burned shall include paper, cardboard, clothes, rags, furniture, tires, leather, rubber of any kind, plastic and plastic coated materials, flammable materials, wood and other material from building construction, demolition or renovation or any other industrial or household waste.

(Ord. 2008-1, 4/23/2008, Art. 2)

§7-503. Duties of Police Department, Fire Chief, and/or Fire Department.

The Council of the Borough of Nesquehoning authorizes and it shall be the duty of any Nesquehoning Police Officer, any fire chief or their designee of the fire companies of the Borough of Nesquehoning, to examine all places within the Borough limits where a controlled burning is requested. In the discharge of such duty, he or she may enter upon or into any private lane, alley, vacant lot, backyard, or any other portion of the private property of any person within the Borough of Nesquehoning.

(Ord. 2008-1, 4/23/2008, Art. 3)

§7-504. Liability for Damages.

Anyone within the Borough of Nesquehoning who burns and any property owner in the Borough of Nesquehoning who allows burning on his or her property shall be jointly and severally liable for any and all damages incurred as a result of any burning.

(Ord. 2008-1, 4/23/2008, Art. 4)

§7-505. Clean Up and Removal of Debris.

Anyone who burns within the Borough of Nesquehoning and any property owner in the Borough of Nesquehoning who allows burning on his or her property shall clean up and remove any and all residue from the burning within 10 working days from the date of burning.

(Ord. 2008-1, 4/23/2008, Art. 5)

§7-506. Notification of Illegal Burning.

In the event anyone is engaged in illegal burning under the provisions of this Part, any fire chief, or their designee, of the fire companies of the Borough of Nesquehoning or any member of the Nesquehoning Police Department shall notify said person that he or she is in violation of this Part and said person shall immediately extinguish the fire. (*Ord. 2008-1, 4/23/2008, Art. 6*)

§7-507. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. (*Ord. 2008-1, 4/23/2008, Art. 7; as amended by Ord. 2013-1, 6/26/2013*)

§7-508. Burning Ban Restrictions.

If there is a burning ban in effect within the Borough of Nesquehoning, the burning ban will supersede any of the allowable burning within the Borough of Nesquehoning and no burning will be allowed until the ban is lifted. (*Ord. 2008-1, 4/23/2008, Art. 10*)