

RESOLUTION No. 7-85

Butler County, Ohio

Be It Resolved by the Township Trustees of Union Township,

that

Adopted the 25th day of June 19 85

Attest:

Patricia Williams
Township Clerk.

John Ross
Sept W Powell
John Hoff
Township Trustees

UNION TOWNSHIP FIRE DEPARTMENT
and
EMERGENCY MEDICAL SERVICE
DEPARTMENT HEADQUARTERS



9119 Cincinnati Dayton Road

West Chester, Ohio 45069

James Detherage
Chief

Office
(513) 777-1133

June 25, 1985

Union Township Trustee's
West Chester, Ohio 45069

RE: Adoption of a Township Fire Prevention Code.

Dear Board,

As indicated in the attached, the State of Ohio has adopted a new fire prevention code effective June 1, 1985. The State of Ohio adopted the 1984 edition of the Building Officials and Code Administrators (B.O.C.A.) model code.

The State and Butler County are also using the B.O.C.A. Building Code which is compatible with the B.O.C.A. Fire Code.

With the continued growth and development of Union Township, it is very important that the Fire Department have the latest and most current codes provided for our use. We must remain effective and have the ability to use the codes that are written for today's design and construction techniques as well as attempting to keep existing structures as safe as possible.

I would suggest that Union Township adopt the same code for our enforcement use as did the State. Attached, you will find several reasons why Union Township should do this as well as a suggested resolution form.

If more information is needed, I will be happy to obtain it for your consideration.


James Detherage, Chief

JD/tj

SUGGESTED FOR OF RESOLUTION FOR ADOPTING THE BOCA
BASIC/NATIONAL FIRE PREVENTION CODE, 6TH EDITION, 1984

RESOLUTION NUMBER 7-85

A RESOLUTION PRESCRIBING REGULATIONS CONSISTENT WITH NATIONALLY RECOGNIZED STANDARDS FOR SAFEGUARDING, TO A REASONABLE DEGREE, OF LIFE AND PROPERTY FROM THE HAZARDS OF FIRE AND EXPLOSION ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES: AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE USE OR OCCUPANY OF BUILDINGS OR PREMISES: KNOWN AS THE FIRE PREVENTION CODE.

SECTION 1. ADOPTION OF BASIC/NATIONAL FIRE PREVENTION CODE.

That a certain document, three (3) copies of which are on file in the office of the Union Township Clerk of Butler County being marked and designated as the "The BOCA Basic/National Fire Prevention Code, 6th Edition, 1984, as published by Building Officials and Code Administrators International, Inc., is hereby adopted as the Fire Prevention Code of the Union Township of Butler County in the state of Ohio; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the BOCA Basic/National Fire Prevention Code, 6th Edition, 1984, are hereby referred to, adopted and made a part thereof, as if fully set out in this resolution.

SECTION 2. INCONSISTENT RESOLUTIONS REPEALED

That all other resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section F-100.1 (page 1, second line) Insert Union Township

Section F-103.2 It shall be unlawful to engage in any business activity involving the handling, storage, or use of hazardous substances, materials, or devices, or to establish a place of assembly without first notifying the fire official and obtaining a permit issued by the local fire official.

Section F-105.5.1 change misdemeanor to minor misdemeanor

SECTION 4. SAVING CLAUSE

That nothing in this resolution or in the Basic/National Fire Prevention Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquitted or liability incurred, or any clause or causes of action acquired or existing, under any act or resolution hereby repealed as cited in Section 2 of this resolution; not shall any just or legal right or remedy of any character be lost, impaired or affected by this Resolution.

SECTION 5. DATE OF EFFECT

That the Union Township Clerk shall certify to the adoption of this Resolution and cause the same to be published as required by law; and this resolution shall take effect 30 days after approval as so certified.



JOHN F. HOLCOMB
Prosecuting Attorney

Office of the
PROSECUTING ATTORNEY
Butler County, Ohio

Butler County, Ohio
Butler County Courthouse
P.O. Box 515
Hamilton, Ohio 45012
Telephone Area Code 513
867-5722
867-5832

February 15, 1985

Robert C. Connell, Lt.
Union Township
Bureau of Fire and Life Safety
9119 Cincinnati Dayton Road
West Chester, Ohio 45069

RE: Fire Code

Dear Lt. Connell:


After reviewing our earlier opinions about Township-Adopted Fire Codes in the light of Section 505.373 of the Ohio Revised Code, we have concluded that, contrary to our earlier interpretation, a Board of Township Trustees may adopt any standard Fire Code that has been "prepared and promulgated by a public or private organization".

This broader interpretation will allow the Union Township Trustees to adopt the Building Officials and Code Administrators (BOCA) Basic/National Fire Prevention Code, if the Trustees so desire.

After the adoption of such a code by the Board of Trustees, all other requirements of Section 505.373, particularly as to notice in a newspaper of general circulation for three consecutive weeks must be met.

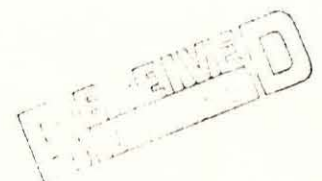
I apologize for the length of time it has taken me to reach this conclusion and thank you for your patience.

Sincerely,


Victoria Daiker
Assistant Prosecuting Attorney
Butler County, Ohio

VD/sp

cc: Marcellus A. Osner, Administrative Assistant
Union Township Trustees



SUGGESTED FOR OF RESOLUTION FOR ADOPTING THE BOCA
BASIC/NATIONAL FIRE PREVENTION CODE, 6TH EDITION, 1984

RESOLUTION NUMBER _____

A RESOLUTION PRESCRIBING REGULATIONS CONSISTENT WITH NATIONALLY RECOGNIZED STANDARDS FOR SAFEGUARDING, TO A REASONABLE DEGREE, OF LIFE AND PROPERTY FROM THE HAZARDS OF FIRE AND EXPLOSION ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES: AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE USE OR OCCUPANCY OF BUILDINGS OR PREMISES: KNOWN AS THE FIRE PREVENTION CODE.

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Section F-103.2 It shall be unlawful to engage in any business activity involving the handling, storage, or use of hazardous substances, materials, or devices, or to establish a place of assembly without first notifying the fire official and obtaining a permit issued by the local fire official.

Section F-105.5.1 change misdemeanor to minor misdemeanor

SECTION 4. SAVING CLAUSE

That nothing in this resolution or in the Basic/National Fire Prevention Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquitted or liability incurred, or any clause or causes of action acquired or existing, under any act or resolution hereby repealed as cited in Section 2 of this resolution; not shall any just or legal right or remedy of any character be lost, impaired or affected by this Resolution.

SECTION 5. DATE OF EFFECT

That the Union Township Clerk shall certify to the adoption of this Resolution and cause the same to be published as required by law; and this resolution shall take effect _____ days after approval as so certified.

3737.42 Notice of violation, issuance of citation; form, contents, posting.

(A) If, upon inspection or investigation, the fire marshal, his authorized representative, or a certified fire safety inspector believes that the state fire code, or any order issued by the fire marshal has been violated, he shall with reasonable promptness issue a citation to the responsible person. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the state fire code or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. When the citation is issued by an officer other than the fire marshal, a copy of the citation shall be furnished to the fire marshal.

(B) The fire marshal may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

(C) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted by the responsible person, as prescribed in the state fire code, at or near each place a violation referred to in the citation occurs.

With the Ohio Fire Code in effect throughout the state, why would a community want to adopt a local fire (i.e., 1984 Basic/National Fire Prevention Code) prevention code pursuant to the laws mentioned in the opening paragraph? There are many answers to this question. One, there is local control of local fire safety concerns, including the ability to keep any violation hearing local. Two, there is the ability to adopt current rules which are in concert with the ever-changing Ohio Basic Building Code (OBBC- currently based on the 1984 Basic Building Code). Three, there is the ability to adopt current rules which reflect fire safety in the everchanging existing environment. Four, local adoption of fire safety regulation does not affect the authority or use of the OFC. Actually, with local adoption, the inspector has a choice as to which enforcement route he wishes to take; i.e., that state route with OFC on state citation forms or the local route with local regulations (1984 BOCA Basic/National Fire Prevention Code)on local citation forms.

Shouldn't you , as trustees, establish a modern mechanism for your fire safety inspector(s) so that fire safety concerns in your community can be addressed reasonably and with current solutions?

If you or your fire safety forces are in need of further information on local adoption of current fire prevention regulations, please contact Bruce Larcomb at the BOCA Regional Office, 3021 East Dublin-Granville Road, Columbus, Ohio 43229. Phone 614/890-1064.

LOCAL FIRE SAFETY ENFORCEMENT

Ohio Law section, 505.373 ORC respectively permits a township to adopt local fire prevention regulations.

505.373 Fire prevention code, adoption. The township board of trustees may, by resolution, adopt by incorporation by reference a standard code pertaining to fire, fire hazards and fire prevention, prepared and promulgated by the state, or any department, board, or other agency thereof, or any such code prepared and promulgated by a public or private organization that published a model or standard code.

After the adoption of such a code by the board, a notice clearly identifying the code, stating the purpose of the code, and stating that a complete copy of the code is on file with the township clerk for inspection by the public and also on file in the law library of the county in which the township is located and that the clerk has copies available for distribution to the public at cost, shall be posted by the township clerk in five conspicuous places in the township for thirty days before becoming effective. The notice required by this section shall also be published in a newspaper of general circulation in the township for three consecutive weeks. If the adopting township amends or deletes any provision of the code, the notice shall contain a brief summary of the deletion or amendment.

If the agency that originally promulgated or published the code thereafter amends the code, any township that had adopted the code pursuant to this section may adopt the amendment or change by incorporation by reference in the same manner as provided for adoption of the original code.

505.374 Violation of code. No person shall violate a provision of a standard code or regulation adopted under Section 505.373 of the Revised Code. Each day of continued violation of this section shall constitute a separate offense.

Then why did the State Fire Marshal adopt the Ohio Fire Code (OFC) (based on the 1984 edition of the BOCA Basic/National Fire Prevention Code)? The answer is at least two fold. One, there are a large number of small townships that do not have the activity or growth to warrant local adoption of fire safety regulations. Yet, on occasion, the small community fire safety inspector must have access to rules (OFC) he or she can site, which, in turn, are usually enforced through the state system. Second, the State Fire Marshal inspectors need uniform rules that are in concert with other state agencies with which to address fire hazards throughout Ohio.

Therefore, per the mandates of section 3737.82 ORC, the Ohio Fire Code was adopted allowing local inspectors access to the OFC through section 3737.42 ORC.