

CHAPTER IX

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Part 1

Fire Marshall; Fire Committee

Section 101. Appointment of Fire Marshall. In order to carry out the provisions of this Chapter, the Board of Supervisors of Amity Township shall appoint a citizen of the Township able and familiar with fire hazards and fire risks as the Fire Marshall. Said Fire Marshall shall have power and authority to inspect any and all premises and buildings in the Township for fire hazards. Said Fire Marshall shall be appointed as soon as possible after enactment of this Ordinance and shall serve until December 31, 1995 or until a successor is duly appointed. The office of Fire Marshall shall be filled every two (2) years thereafter. The Board of Supervisors shall have the power to fill a vacancy in the event that one occurs and likewise shall have the power to remove said Fire Marshall at any time. (Ordinance 3, February 4, 1956, Section 8)

Section 102. Fire Committee Rights and Duties. In order to carry out the provisions of this Chapter pertaining to fire risks and hazards, the Fire Committee appointed each year by the Fire Marshall of the Township, duly designated by the Board of Supervisors of the Township of Amity, shall have supervision over, and examine all fire risks in the Township, and upon finding any hazards shall report the same to the Fire Marshall, who will then forward a notice to the owner stating the danger and recommending changes to be made. For that purpose, with the consent of the owner, the members of said Fire Committee shall have authority to enter any building and inspect the conditions existing therein so far as the same refers to fire risks, unless an emergency exists or a legal warrant is obtained, in which case the owner's permission is not required. (Ordinance 36, February 6, 1970, Section 21F)

Section 103. Penalties. Any person or persons violating any of the provisions of this Part or neglecting or failing to comply with any order or notice issued pursuant to a violation of any section hereof shall, upon conviction before any District Justice within the County of Berks, be sentenced to pay a fine not exceeding One Thousand Dollars (\$1,000.00) for each offense, with costs to be recovered in the name of the Township of Amity, Berks County, Pennsylvania, and if the amount of said judgment and costs shall not be paid, said person shall suffer imprisonment in the Berks County Prison for a period not exceeding thirty (30) days. (Ordinance 3, February 4, 1956, Section 9; as amended by Ordinance 36, February 6, 1970, Section 22)

Section 104. Severability. The provisions of this Part shall be severable, and if any of its provisions shall be held to be unconstitutional, invalid or beyond the power of the Township of Amity to prohibit the decision so holding, said provision shall not be construed to affect the validity of any of the remaining portions of this Part. It is hereby declared as the intent of the Board of Supervisors of the Township of Amity that this Part would have been adopted had such unconstitutional, invalid or unauthorized provision not been included therein. (Ordinance 36, February 6, 1970, Section 24)

Part 2

Fire Prevention and Public Safety

Section 201. Definition of Person. The word Person used in this Part shall in all cases include any individual, partnership, association or corporation, singular or plural, including the responsible officers of any such association or corporation. (Ordinance 36, February 6, 1970, Section 23)

Section 202. Defective or Hazardous Conditions. Any chimney, furnace or smokestack found to be defective, any fire hazards found, or any fire escapes or exists which are blocked or found defective, upon inspection, shall immediately be repaired or cleared upon written or printed notice from the Township Fire Marshall. Such notice shall contain a specific statement of the danger or hazard and a recommendation of the change or changes which are to be made. (Ordinance 3, February 4, 1956, Section 7; as amended by Ordinance 36, February 6, 1970, Section 21E)

Section 203. False Alarms. No person shall make or originate any false alarm of fire. (Ordinance 3, February 4, 1956, Section 4; as amended by Ordinance 36, February 6, 1970, Section 21A)

Section 204. Depositing of Materials Liable to Spontaneous Ignition. No person shall deposit hot ashes, smouldering coals or embers, grease or oily substances or other matter liable to spontaneous ignition within ten feet (10') of any wooden or plastered wall, partition, fence, hedge, floor, lumber, rubbish or any other combustible container. Such containers, unless resting on the ground, outside the building, must be placed on noncombustible stands and in every case must be kept at least two feet (2') from any wall, partition or other combustible material. (Ordinance 36, February 6, 1970, Section 21C)

Section 205. Storage of Combustible Materials. It shall be unlawful for any person, persons, firm or corporation making, using, storing or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter or other combustible trash or fragments to fail, neglect or refuse at the close of each day to cause all such material which is not compactly baled or stacked in an orderly manner to be removed from the premises or stored in a noncombustible container as prescribed in Section 203 of this Part. (Ordinance 36, February 6, 1970, Section 21D)

Section 206. Penalties. Any person or persons violating any of the provisions of this Part or neglecting or failing to comply with any order or notice issued pursuant to a violation of any section hereof shall, upon conviction before any District Justice within the County of Berks, be sentenced to pay a fine not exceeding One Thousand Dollars (\$1,000.00) for each offense, with costs to be recovered in the name of the Township of Amity, Berks County, Pennsylvania, and if the amount of said judgment and costs shall not be paid, said person shall suffer imprisonment in the Berks County Prison for a period not exceeding thirty (30) days. (Ordinance 3, February 4, 1956, Section 9; as amended by Ordinance 36, February 6, 1970, Section 22)

Section 207. Severability. The provisions of this Part shall be severable, and if any of its provisions shall be held to be unconstitutional, invalid or beyond the power of the Township of Amity to prohibit the decision so holding, said provision shall not be construed to affect the validity of any of the remaining portions of this Part. It is hereby declared as the intent of the Board of Supervisors of the Township of Amity that this Part would have been adopted had such unconstitutional, invalid or unauthorized provision not been included therein. (Ordinance 36, February 6, 1970, Section 24)

Part 3

Open Fires

Section 301. Definitions.

(a) Board of Supervisors. The Board of Supervisors of the Township of Amity.

(b) Incinerator. Any device specifically designed for the destruction by burning of refuse, sewage, sludge or any other combustible container.

(c) Open Fire. A fire in which any material is burned in the open or not in a receptacle.

(d) Person. Any individual, partnership, association, corporation, department, bureau, agency or other legal entity."

(Ordinance 114, February 20, 1989, Section 1; as amended by Ordinance 185, December 17, 2001, Section 1)

Section 302. Enforcement. The Board of Supervisors shall have the power to enforce the provisions of this Part and does specifically authorize and empower the Fire Marshal, or his designee, to enforce the same. (Ordinance 114, February 20, 1989, Section 2; as amended by Ordinance 185, December 17, 2001, Section 2)

Section 303. Open Fire Regulations.

(a) No person shall kindle or maintain an open fire or authorize any fire to be kindled or maintained on any street, avenue, alley, easement or right of way. This shall also include all Amity Township property. No open fire shall be kindled within 50' of any structure, fence, property line or combustible material. All fires must be guarded by one or more responsible persons until such fire has burned out. It is unlawful to kindle or maintain any open fire or authorize any open fire between sunset and sunrise.

(b) When any field or brushland is to be burned, which field or brushland is an acre or more in area or adjacent to or adjoining any building, notice of such burning must be given by the person intending to make the fire to the Chief of the local fire company or the Fire Marshal of the Township at least twenty-four (24) hours prior to the time such burning is to take place.

(c) No person shall burn rubbish or paper except in containers or devices which will keep such fires under safe and adequate control.

(d) No person shall burn garbage within the geographic limits of the Township of Amity except in containers constructed or manufactured for such purpose and in such manner not offensive to his neighbors.

(e) No person shall burn rubbish, garbage or refuse of any kind within those areas of the Township of Amity when the Township provides for the collection and disposal of garbage, rubbish, refuse, paper, etc.

(f) Within the Amity Township limits, no person shall ignite, feed, allow or permit the maintenance of any open fire in any public or private place outside any building or device approved and built specifically for containment of a fire, unless the fire is under the direct and constant supervision of an adult.

(g) It shall be unlawful for residents of Amity Township to burn any recyclables that are included in the Township Recycling Program.

(Ordinance 3, February 4, 1956, Sections 5-6; as amended by Ordinance 36, February 6, 1970, Sections 11 & 21; as further amended by Ordinance 114, February 20, 1989, Section 3; as further amended by Ordinance 185, December 17, 2001, Section 3)

Section 304. Limitations. On any occasion when an open fire is ignited, fed, permitted or allowed to be maintained outside a building or device constructed to contain said fire, the Fire Marshal, or his designee, may, in his judgment determine that the fire constitutes a danger to any person or property, whether public or private, and order the fire extinguished or direct such other restrictions or limitations to contain and remove the danger of loss or injury. (Ordinance 114, February 20, 1989, Section 4; as amended by Ordinance 185, December 17, 2001, Section 4)

Section 305. Penalties. Any person or persons violating any of the provisions of this Part or neglecting or failing to comply with any order or notice issued pursuant to a violation of any section hereof shall, upon conviction before any District Justice within the County of Berks, be sentenced to pay a fine not exceeding One Thousand Dollars (\$1,000.00) for each offense, with costs to be recovered in the name of the Township of Amity, Berks County, Pennsylvania, and if the amount of said judgment and costs shall not be paid, said person shall suffer imprisonment in the Berks County Prison for a period not exceeding thirty (30) days. (Ordinance 3, February 4, 1956, Section 9; as amended by Ordinance 36, February 6, 1970, Section 22)

Section 306. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Board of Supervisors that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ordinance 36, February 6, 1970, Section 24; as amended by Ordinance 114, February 20, 1989, Section 6)

Part 4

Fire Insurance Escrow

Section 401. Use of Fire Insurance Proceeds.

(a) No insurance company, association of 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 Township of Amity, Berks County, Pennsylvania 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 insurer is furnished by the Treasurer of the Township of Amity with a Certificate pursuant to Section 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 Section 508(c) and 508(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 Township has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Treasurer of the Township shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the 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 of the Township shall furnish a Certificate within fourteen (14) days after the request of the insurer 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 Subsections (a) and (b) of this Section, the insurer shall transfer to the Treasurer of the Township an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of Subsection (c) of this Section.

(c) When all municipal claims and municipal expenses have been paid pursuant to Subsections (a) and (b) of this Section, or when the Township Treasurer has issued a Certificate described in Subsections (a) and (b) of this Section 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 sixty percent (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 Township Treasurer, in the aggregate, Two Thousand Dollars

(\$2,000.00) for each Fifteen Thousand Dollars (\$15,000.00) 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 Township, 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 for the Township 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 of the Township shall do the following:

(i) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township 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 Township in connection with such removal, repair or securing or any proceedings related thereto.

(ii) Mail to the named insured at the address received from the insurer a notice that the proceeds have been received by the Township and that the procedures under this Subsection shall be followed.

(iii) After the transfer, then named insured may submit to the Township a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Treasurer shall, if such estimates deemed by the Township Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Township in excess of that amount required to pay the municipal expenses; provided, however, that the Township has not commenced to remove, repair or secure the building or other structure, in which case the Township will complete the work.

(iv) Pay to the Treasurer of the Township for reimbursement to the Township's General Fund, the amount of the municipal expenses paid by the Township.

(v) Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate issued by the Township 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 Township.

(vi) Nothing in this Section shall be construed to limit the ability of the Township 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 Township Codes, or to enter into an agreement with the named insured with regard to such

other disposition of the proceeds as the Township may deem responsible.

(Ordinance 191, September 3, 2002, Section 1)

Section 402. Limits of Liability. Nothing in this Part 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 Part or to make the Township or any public official of the Township 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. (Ordinance 191, September 3, 2002, Section 1)

Section 403. Insurance Company Rights Reserved. An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structural removal liens or removal expenses incurred by the Township shall have full benefit of such payment including all rights of subrogation and of assignment. (Ordinance 191, September 3, 2002, Section 1)

Section 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. (Ordinance 191, September 3, 2002, Section 1)

Section 405. Notification of Pennsylvania Department of Community and Economic Development. The Treasurer of the Township shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development. (Ordinance 191, September 3, 2002, Section 1)

Section 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 pay a fine not greater than One Thousand Dollars (\$1,000.00) plus costs and in default of payment of said fine and costs to a term of imprisonment not to exceed thirty (30) days. Each day in which an offense shall continue shall be deemed a separate offense. (Ordinance 191, September 3, 2002, Section 1)

Section 407. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Board of Supervisors of Amity Township that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ordinance 191, September 3, 2002, Section 1)