

Chapter 7

Fire Prevention and Fire Protection

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Part 1**Office of Fire Marshal****§7-101. Office of Fire Marshal Created.**

The Office of Fire Marshal is hereby created in the Forest Hills Borough; such officer to be appointed by the Borough Council. The office of Fire Marshal shall be in the Department of Public Safety, and the Fire Marshal shall report to the Mayor except on those matters of which he is required by law to report directly to the Borough Council.

(*Ord. 510, 1/11/1968; as revised by Ord. 830, 3/18/1992*)

§7-102. Appointment; Compensation; Powers and Duties.

The person appointed to the office of Fire Marshal shall be appointed as soon as practicable after the adoption of this Part and shall serve at the pleasure of the Borough Council until their respective successors have been duly appointed and qualified. The aforesaid appointment for a specified term notwithstanding, the Borough Council retains the right to remove the Fire Marshal at its pleasure. Vacancies shall be filled in the same manner as the original appointment was made, for the unexpired portion of the term. If for any reason this office is not separately filled by appointment of, and with the approval and consent of the Borough Council, the Fire Chief shall be deemed the ex officio Fire Marshal thereof and shall have all the powers and duties hereinafter given to or imposed upon the Fire Marshal. Compensation of the Fire Marshal shall be fixed from time to time by the Borough Council. The Fire Marshal shall perform all duties and shall have and exercise all powers prescribed by law.

(*Ord. 510, 1/11/1968; as revised by Ord. 830, 3/18/1992*)

§7-103. Interference with Fire Marshal Unlawful.

No person shall in any way obstruct or prevent, or attempt to obstruct or prevent the Fire Marshal in the discharge of his duties, by denying or attempting to deny him access to any premises owned or occupied by such person, either by failing or refusing correct information requested by him in the investigation into the cause, origin or circumstances of any fire.

(*Ord. 510, 1/11/1968; as revised by Ord. 830 3/18/1992*)

§7-104. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with this Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated.

All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(*Ord. 510*, 1/11/1968; as revised by *Ord. 830*, 3/18/1992; and by *Ord. 976*, 1/16/2008)

Part 2**Outdoor Fires****§7-201. General Regulations; Exceptions.**

1. No person shall burn or cause to be burned any paper, boxes, rubbish, leaves, wood or any other material or substances of any kind within the Forest Hills Borough and the entire Forest Hills Borough shall be and hereby is constituted as fire limits.

2. The regulations as to burning as set forth in subsection .1, above, shall not apply to any outside facilities for cooking and using smokeless fuel within the Borough.

3. The above regulations shall not apply to the burning of any materials by Borough authorities or in an incinerator or incinerating plant maintained and regulated by a governmental or public agency; provided, such burning or facility shall have received all necessary approvals and permits from County, State and Federal agencies.

(Ord. 976, 1/16/2008)

§7-202. Violations and Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with this Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 976, 1/16/2008)

Part 3**Fire Department****§7-301. Definitions.**

Sender or sending department - the party receiving a request for, or sending, aid and assistance to the other.

Receiver or receiving department - the party requesting or receiving aid and assistance from another.

Law enforcement mutual aid or mutual aid - the provisions of manpower and logistical support needed by a receiving department to meet its immediate needs when the resources of the receiving department are insufficient to cope with a law enforcement situation or fire emergency.

(Ord. 898, 1/19/2000, §1)

§7-302. Situations Covered.

The provision of this Part may be invoked for any law enforcement or fire emergency situation occurring within the receiving department which requires the use of resources not immediately available to the receiving department.

(Ord. 898, 1/19/2000, §2)

§7-303. Method of Requesting Assistance.

It is understood and agreed that compliance with the terms of this Part shall be voluntary and not compulsory for the party furnishing police and fire aid. Consequently, when a police officer or firefighter of one party is requested to furnish aid to another party under the terms of this Part, he/she shall refuse to do so if directed by the proper officials of his own department.

(Ord. 898, 1/19/2000, §3)

§7-304. Command and Control.

Law Enforcement and firefighting personnel and equipment, upon entering the jurisdiction of a receiving department in a response to a request for mutual aid, shall be under the direction and control of the commanding officer of the receiving department. So far as practicable, officers from a Sending Department will be utilized in conjunction with officers from a Receiving Department so as to compensate for the lack of knowledge of the geography of the Receiving Department.

A. *Recall of Personnel and Equipment.* Personnel and equipment provided to a receiving department may be recalled at any time by the Chief of Police or Fire Chief or designated representative of the sending department, and prompt notice of such recall shall be given to the receiving department.

(Ord. 898, 1/19/2000, §4)

§7-305. Powers of Responding Officers.

All the immunities from liabilities and exceptions from laws, ordinances and

regulations which law enforcement officers or firefighters employed by the undersigned parties have in their own jurisdiction, as well as those applicable to the receiving department, shall be effective unless otherwise prohibited by law. Police officers from a sending department shall have all the powers of police officers, including the power of arrest, while responding to a mutual aid request.

(*Ord. 898, 1/19/2000, §5*)

§7-306. Financial Responsibility.

No charge or expense of any type shall be assessable for police or fire aid furnished by one party to another under the terms of this Part. These charges or expenses include, but shall not be limited to, court costs and witness fees for said police aid. Any police officer or firefighter of a party hereto furnishing aid to the other party shall, at all times, remain the employee of the party originally hiring and/or originally accepting him as a volunteer. The party originally retaining a police officer or firefighter shall, at all times, be responsible for paying all wages of such personnel, for carrying workmen's compensation upon him/her, and for all other duties and responsibilities pertaining to the employment of such personnel.

(*Ord. 898, 1/19/2000, §6*)

§7-307. Indemnification and Mutual Covenant Not to Sue.

The receiving department shall indemnify and hold harmless the sending department from any and all claims (including injury and death) arising out of mutual aid provided under this Part. The receiving and sending departments hereby covenant not to sue each other for any incident arising out of or in connection with any request for mutual aid, except for acts intended for intentional harm.

(*Ord. 898, 1/19/2000, §7*)

§7-308. Death or Injury.

Law enforcement and fire personnel of the sending department injured or killed while responding to or returning home from a request for mutual aid under this Part shall be deemed to have been on active duty for the sending department for all purposes.

(*Ord. 898, 1/19/2000, §8*)

§7-309. Oaths of Office.

The police and fire personnel of each respective department shall take the oath of office administered by the Mayor of the other municipality.

(*Ord. 898, 1/19/2000, §9*)

Part 4**Security for Fire Loss Claims****§7-401. General Purpose.**

The Borough, through provisions of this Part, hereby incorporates the provisions of §638 of the Insurance Company Law, 40 P.S. §638, as amended, which provides the Borough with the authority to require security in the form of insurance proceeds from an insurance company, association or exchange (hereinafter the “insuring agent”), doing business in Pennsylvania, for the removal, repair and securing of fire damaged buildings and other structures subject to fire loss claims.

(Ord. 976, 1/16/2008)

§7-402. Designated Borough Officer.

The Borough Treasurer, or such official’s designee, shall be the designated officer authorized to carry out all responsibilities and duties stated herein. Any reference to “Borough Treasurer” or “Treasurer” shall be defined to include the Treasurer and/or the Treasurer’s official designee.

(Ord. 976, 1/16/2008)

§7-403. Payment of Insurance Proceeds.

No insuring agent shall pay a claim of a named insured for fire damage to a structure located within the Borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500 unless the insuring agent is furnished with a municipal certificate from the Borough Treasurer pursuant to §638(b) of the Insurance Company Law, as amended, and unless there is compliance with the provisions of this Part.

(Ord. 976, 1/16/2008)

§7-404. Procedure.

1. *Issuance of Certificate Where Delinquent Taxes or Charges Are Due and/or Costs Have Been Incurred by Borough Related to the Fire Damaged Building or Structure.* Where pursuant to §638(b)(1)(ii) of the Insurance Company Law, as amended, the Borough Treasurer is requested to issue a certificate to the insuring agent regarding property that is subject to delinquent taxes, assessments, penalties and user charges, the Treasurer shall issue such certificate along with a bill showing the amount of delinquent taxes, assessments, penalties and user charges against the subject property that have not been paid as of the date of the Treasurer’s certificate and also showing, as of the date of the Treasurer’s certificate, the amount of the total costs, if any, certified to the Treasurer that have been incurred by the Borough for the removal, repair or securing of a damaged building or other structure on the property.

A. The Borough shall be responsible for certifying to the Treasurer any such costs incurred by the Borough for removal, repair or securing of a damaged building or other structure on the property.

B. The insuring agent shall, upon receipt of such certificate and bill, return

the bill to the Borough 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.

C. The Borough shall, upon receipt of such amount, apply or credit the amount to payment of the items shown on the bill.

2. *Issuance of Certificate Where No Delinquent Taxes or Charges Are Due and No Costs Have Been Incurred by Township Related to the Fire Damaged Building or Structure.* Where pursuant to §638(b)(1)(i) of the Insurance Company Law, as amended, the Borough Treasurer is requested to issue a certificate to the insuring agent, or, at the discretion of the Borough Treasurer, a verbal notification confirmed in writing by the insuring agent, regarding property that is not subject to delinquent taxes, assessments, penalties or user charges, the Treasurer shall issue such a certificate which indicates that 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 Borough has not certified any amount as total costs incurred by the Borough for the removal, repair or securing of a damaged building or other structure on the property, and the insuring agent shall pay the claim of the named insured; provided, however, that if the loss as 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 or other structure, the insuring agent shall transfer proceeds, as security, to the Borough in accordance with subsections .3 and .4, which conform to §§638(c) and (d) of the Insurance Company Law.

3. *Transfer of Proceeds.* In accordance with §638(c) of the Insurance Company Law, as amended, the insuring agent shall transfer from the insurance proceeds, as security, to the Borough Treasurer:

A. An amount in the aggregate of \$2,000 for each \$15,000 of a fire loss claim and for each fraction thereof; however, if the amount of such claim is \$15,000 or less, the amount transferred to the Borough shall be \$2,000.

B. If at a time of the 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 that is in an amount less than the above formula, the insuring agent shall transfer to the Borough the amount specified in the estimate.

4. *Pro Rata Transfer.* The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the damaged building or structure.

5. *Post Transfer Contractor's Estimate.* After the transfer of proceeds, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the damaged building or other structure, and the Borough Treasurer shall return the amount of secured proceeds in excess of the estimate to the named insured, if the Borough has not otherwise commenced removing, repairing or securing the damaged building or other structure.

6. *Accounting Procedure for Transferred Proceeds.* Upon receipt of security under this Section, the Borough shall conform to the following procedure, pursuant to §638(d) of the Insurance Company Law:

A. The Borough Treasurer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing, or securing the damaged building or structure incurred by the Borough. Such costs shall

include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removing, repairing or securing of the building or any procedure related thereto.

B. When transferring the proceeds, it is the obligation of the insuring agent to provide the Borough with the name and address of the named insured, whereupon the Borough Treasurer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this Section and §638(d) of the Insurance Company Law shall be followed.

C. The proceeds shall only be returned to the named owner upon the following stated occurrences: the damaged building or other structure has been properly repaired, removed or secured in accordance with all applicable laws, regulations and requirements of the Borough; the requisite proof of such completion has been received by the Borough Treasurer; and the Borough has not incurred any costs associated with repairing, removing or securing the damaged building or other structure.

D. If the Borough has incurred costs associated with repairing, removing or securing the building or other structure, such costs shall be paid from the secured funds. If excess funds remain, the Borough Treasurer shall transfer the remaining funds to the named insured.

E. Any interest earned on proceeds held by the Borough that are not returned to the named insured shall belong to the Borough. Any interest earned on proceeds that are returned to the named insured shall be distributed to the named insured at the time said proceeds are returned.

7. *Borough's Ability to Recover Deficiency.* Nothing in this Part shall be construed to limit the ability of the Borough to recover any deficiency.

8. *Agreement with Named Insured.* Nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement which permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

(Ord. 976, 1/16/2008)

§7-405. Additional Rules and Regulations.

The Borough may by resolution adopt procedures and regulations to implement §638 of the Insurance Company Law, as amended, and this Part, and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to §638 of the Insurance Company Law, as amended, and this Part including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

(Ord. 976, 1/16/2008)

§7-406. Violations and Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000

for each violation, plus court costs and costs of prosecution incurred by the Borough, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses. Procedures for collection of fines and penalties for default of payment shall be in accordance with this Chapter 1 of this Code.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 976, 1/16/2008)

Part 5**Reimbursement of Emergency Service Costs****§7-501. Definitions.**

For the purposes of this Part, the following terms shall be defined in accordance with this Section:

Fire Department - shall be defined as the Forest Hills Volunteer Fire Department and/or any other volunteer fire department authorized to provide service in the Borough.

Hazardous materials - any substances or materials in a quantity or form which poses an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum products or gases, poisons, etiologic (biologic) agents, flammable, corrosives or materials listed in the hazardous substances list of the Pennsylvania Department of Labor and Industry. This definition shall also conform to the corresponding definition contained in the Hazardous Material Emergency Planning and Response Act, 35 P. S. §6022.103.

(Ord. 976, 1/16/2008)

§7-502. Authorization of Borough.

The Borough, through its emergency services, is authorized to clean up, dispose or abate, or cause to be cleaned up, disposed, or abated the effects of any hazardous materials or substances spilled or deposited upon or into properties or facilities within the municipal boundaries of the Borough or having a direct identifiable effect on persons or property within the municipal boundaries of the Borough including, but not limited to, traffic control, evacuation, relocation, substance monitoring, establishment of medical care facilities and other costs incurred in the mitigation of the emergency situation.

(Ord. 976, 1/16/2008)

§7-503. Emergency Service Costs Subject to Reimbursement.

Any person who intentionally, negligently, accidentally or otherwise causes a hazardous material or substance spill, deposit, or any other act or omission necessitating the providing of emergency services by the Borough or by the Fire Department within the boundaries of the Borough or the service areas of the Fire Department shall be liable for all reasonable costs incurred by the Borough and/or the Fire Department as a result of such spill, deposit, or other act or omission. The remedy provided by this Part shall be in addition to any other remedies provided by law.

(Ord. 976, 1/16/2008)

§7-504. Emergency Service Costs Defined.

For the purpose of this Part, reasonable costs incurred by the Borough and/or the Fire Department for emergency services shall include, but not be limited to, the

following: actual labor costs of Borough and Fire Department personnel including, but not limited to, workers' compensation benefits, insurance, fringe benefits and administrative overhead; cost of equipment operation; cost of repair or replacement of damaged equipment; cost of special fire extinguishing agents; cost of materials and/or supplies; and any costs of any contracted labor and materials.

(Ord. 976, 1/16/2008)

§7-505. Fire Suppression Services Not Subject to Reimbursement.

The authority to recover reasonable costs under this Part shall not include actual fire suppression services which are normally or usually provided by the Fire Department.

(Ord. 976, 1/16/2008)

§7-506. Procedure for Reimbursement.

For purposes of this Part, the charges for use of the Borough's or the Fire Department's emergency services equipment, materials and personnel shall be billed by the entity incurring the costs, provided that such charges or costs shall not be billed without the prior approval of the Borough Treasurer. Payment of said charges shall be remitted within 30 days of receipt of the entity's bill or invoice. If such charges are not paid within 30 days, the billing entity may initiate an appropriate action in any tribunal of competent jurisdiction for the collection of any amounts due hereunder plus attorneys fees, interest and costs, provided that any such legal action shall not be commenced without the prior approval of the Borough Treasurer.

(Ord. 976, 1/16/2008)