

Chapter 7

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Part 1**Designated Fire Protection Agency****§7-101. Designated Fire Protection Agency.**

The designated fire protection agency for Frazer Township shall be appointed by resolution of the Board of Supervisors and as may be amended from time to time.

(Ord. 137, 7/5/2005)

Part 2**Security for Fire Loss Claims****§7-201. General Purpose.**

The Township, 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 Township 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. 137, 7/5/2005)

§7-202. Designated Township Officer.

The Township Treasurer, as defined by Chapter 1, Part 1 hereof, shall be the designated officer authorized to carry out all responsibilities and duties stated herein.

(Ord. 137, 7/5/2005)

§7-203. Payment of Insurance Proceeds.

No insurance agent shall pay a claim of 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 \$7,500 unless the insurance agent is furnished with a municipal certificate from the Board of Supervisors pursuant to §638(b) of the Insurance Company Law, 40 P.S. §638, as amended, and unless there is compliance with the provisions of this Part.

(Ord. 137, 7/5/2005)

§7-204. Procedure.

1. *Issuance of Certificate Where Delinquent Taxes or Charges are Due and/or Costs Have Been Incurred by Township Related to the Fire Damaged Building or Structure.* Where pursuant to §638(b)(1)(ii) of the Insurance Company Law, 40 P.S. §638, as amended, the Township Treasurer is requested to issue a certificate to the insurance agent regarding property that is subject to delinquent taxes, assessments, penalties and user charges, the Township 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 Township Treasurer's certificate, the amount of the total costs, if any, certified to the Township Treasurer that have been incurred by the Township for the removal, repair or securing of a damaged building or other structure on the property.

A. The Township shall be responsible for certifying to the Township Treasurer any such costs incurred by the Township 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 Township Treasurer and transfer to the Township Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill.

C. The Township 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, 40 P.S. §638, as amended, the Township Treasurer is requested to issue a certificate to the insurance agent, or, at the discretion of the Township Treasurer, a verbal notification confirmed in writing by the insurance agent, regarding property that is not subject to delinquent taxes, assessments, penalties or user charges, the Township 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 Township Treasurer's certificate or verbal notification, the Township has not certified any amount as total costs incurred by the Township for the removal, repair or securing of a damaged building or other structure on the property, and the insurance agent shall pay the claim of the named insured, provided however, that if the loss as agreed upon by the named insured and the insurance agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance agent shall transfer proceeds, as security, to the Township in accordance with subsections .3 and .4, which conform to §§638(c) and (d) of the Insurance Company Law, 40 P.S. §638, as amended.

3. *Transfer of Proceeds.* In accordance with §638(c) of the Insurance Company Law, 40 P.S. §638, as amended, the insurance agent shall transfer from the insurance proceeds, as security, to the Township 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 Township 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 Township 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 Township Treasurer shall return the amount of secured proceeds in excess of the estimate to the named insured, if the Township 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 Township shall conform to the following procedure, pursuant to §638(d) of the Insurance Company Law, 40 P.S. §638, as amended:

A. 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 Township Treasurer shall return the amount of secured proceeds in excess of the estimate to the named insured, if the Township has not otherwise commenced removing, repairing or securing the damaged building or other structure.

B. When transferring the proceeds, it is the obligation of the insurance agent to provide the Township with the name and address of the named insured, whereupon the Township Treasurer shall contact the named insured, certify that the proceeds have been received by the Township and notify the named insured that the procedures under this Section and §638(d) of the Insurance Company Law, 40 P.S. §638, as amended 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 Township; the requisite proof of such completion has been received by the Township Treasurer; and the Township has not incurred any costs associated with repairing, removing or securing the damaged building or other structure.

D. If the Township 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 Township Treasurer shall transfer the remaining funds to the named insured.

E. Any interest earned on proceeds held by the Township that are not returned to the named insured shall belong to the Township. 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. *Township's Ability to Recover Deficiency.* Nothing in this Part shall be construed to limit the ability of the Township to recover any deficiency.

8. *Agreement with Named Insured.* Nothing in this subsection shall be construed to prohibit the Township 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. 137, 7/5/2005)

§7-205. Additional Rules and Regulations.

The Township Board of Supervisors may by resolution adopt procedures and regulations to implement §638 of the Insurance Company Law, 40 P.S. §638, 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, 40 P.S. §638, as amended, and this Part including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

(Ord. 137, 7/5/2005)

§7-206. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, or fails

to comply therewith, or with any of the requirements thereof, 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 Procedures, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist or for each Section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violation of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation and the service of any required notice of violation are hereby delegated to the Township Secretary, the Code Official/Building Inspector, the Code Enforcement Officer, the Zoning Officer and their designees and to any other officer or agent that the Township Secretary or the Board of Supervisors shall deem appropriate.

(Ord. 137, 7/5/2005)

Part 3**Reimbursement of Emergency Service Costs****§7-301. Definitions.**

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

Fire Department - the designated fire protection agency for Frazer Township pursuant to §7-101 of this Chapter and/or any other volunteer fire department authorized to provide service in the Township.

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, as amended.

(Ord. 137, 7/5/2005)

§7-302. Authorization of Township.

The Township, 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 Township or having a direct identifiable effect on persons or property within the municipal boundaries of the Township 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. 137, 7/5/2005)

§7-303. 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 Township or by the Fire Department within the boundaries of the Township or the service areas of the Fire Department shall be liable for all reasonable costs incurred by the Township 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. 137, 7/5/2005)

§7-304. Emergency Service Costs Defined.

For the purpose of this Part, reasonable costs incurred by the Township and/or the

Fire Department for emergency services shall include, but not be limited to, the following: actual labor costs of Township and Fire Department personnel including, but not limited to, worker's compensation benefits, insurance, fringe benefits, wages 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. 137, 7/5/2005)

§7-305. Procedure for Reimbursement.

For purposes of this Part, the charges for use of the Township's or the Fire Department's emergency services equipment, materials and personnel shall be billed by the entity incurring the costs. 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.

(Ord. 137, 7/5/2005)