

## **CHAPTER IX**

### **FIRE PREVENTION AND FIRE PROTECTION**

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## Part 1

### Fire Insurance Escrow

Section 101. Appointment of Officers. The Secretary is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein. (Ordinance No. 99, April 12, 1994, Section 1)

Section 102. Municipal Certificate Required. 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 Township of Tilden (hereinafter the "Township") where the amount recoverable for a fire loss to the structure under all policies exceeds Five Thousand and 00/100 Dollars (\$5,000.00) unless the named insured or Insuring Agent is furnished by the Secretary with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Part. (Ordinance No. 99, April 12, 1994, Section 2)

Section 103. Use of Fire Insurance Proceeds. Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the Secretary issues a certificate indicating that there are no taxes, assessments, penalties, interest, user charges, subdivision fees, zoning fees, sewage enforcement fees, driveway fees, or any other municipal, county or school claims, liens or charges whatsoever are due at the time of issuance of the certificate, the insuring agent shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agent equals or exceeds sixty percent (60%) of the aggregate limits of liability on all basic property insurance policies as defined at Section 506.1(B) of Act 98 of 1992 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 Township of Tilden in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and *pro rata* for each fraction of that amount of a claim, this section to be applied such that if the claim is \$20,000.00 or less, the amount transferred to the Township of Tilden shall be \$1,000.00; or at the election of the Township,

(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, subject to approval of the Township engineer, of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Township of Tilden from the insurance proceeds the amount specified in the estimate.

(c) The transfer of proceeds shall be on a *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 Township of Tilden in excess of the estimate to the named insured, if the Township of Tilden has not commenced to remove, repair or secure the building or other structure.

(e) Upon receipt of proceeds under this section, the Township of Tilden shall do the following:

(1) The Township Secretary/Manager is hereby appointed as a designated officer. The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing or securing the building or structure which is incurred by the Township of Tilden. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township of Tilden. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township of Tilden in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(2) It is the obligation of the Insuring Agent, when transferring the proceeds, to provide the Township of Tilden 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 Township of Tilden and notify the named insured that the proceeds have been received by the Township of Tilden and notify the named insured that the procedures under this subsection shall be followed; and

(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 Township of Tilden, and the required proof of such completion is received by the designated officer, and if the Township of Tilden has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Township of Tilden 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 Township of Tilden shall transfer the remaining funds to the named insured.

(f) Nothing in this Section shall be construed to limit the ability of the Township of Tilden to recover any deficiency. Furthermore, nothing in this Section shall be construed to prohibit the Township of Tilden and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated. (Ordinance No. 99, April 12, 1994, Section 3)

Section 104. Municipal Fees. The Township Supervisors of the Township of Tilden may, by resolution, adopt procedures and regulations to implement Act 98 of 1992; and this Part 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 of certificates and bills, performance of inspections and opening separate fund accounts. (Ordinance No. 99, April 12, 1994, Section 4)

Section 105. Penalties for Violation. Any owner of property, named insured, Insuring Agent, Person, partnership, corporation or other entity who or which has violated or permitted the violation of the provisions of this Part shall, upon conviction thereof in an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of at least One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) and costs of prosecution and/or to undergo imprisonment to the extent permitted by law for the punishment of summary offenses. The Township Solicitor may assume charge of prosecution without the consent of the District Attorney as required under Pa. R.C.P. No. 83(c) (relating to trial in summary cases). Each day that a violation continues shall constitute a separate offense." (Ordinance No. 99, April 12, 1994, Section 5; as amended by Ordinance 113, March 4, 1997, Section 8)

Section 106. Fees for Administering Escrow Fund. The Township may charge a fee for purposes of issuing the certificate required in Section 103 of this Part and for administering the escrow fund as established in Section 103 of this Part in a reasonable amount as to be established by resolution of the Board of Supervisors from time to time. (Ordinance No. 99, April 12, 1994, Section 6)

Section 107. Severability. The provisions of this Part shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Part shall remain in effect. (Ordinance No. 99, April 12, 1994, Section 7)

## Part 2

### Outdoor Fires

Section 201. Purpose. The purpose of this Part is to prevent public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained within Tilden Township, to avoid unnecessary calls and false alarms to the fire company, police or forest fire crew, and to protect the health, safety and welfare of the residents of the Township of Tilden. (Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1)

Section 202. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Attended. The presence of a Competent Adult who at all times maintains a clear view of the entire area of the fire and who is not more than one hundred fifty feet (150') from the fire until the fire is completely extinguished.

(b) Competent Adult. Any person over the age of eighteen (18) years who is not under the influence of drugs (either illegal drugs or prescription medication) or alcohol and who is not suffering from any serious mental illness.

(c) Contained Fire. Any fire contained in an incinerator, in a fireplace used for outdoor cooking or in a fireproof container.

(d) Fire. Any fire set or maintained outside of a building.

(e) Township. The Township of Tilden, Berks County, Pennsylvania.

(f) Uncontained Fire. Any fire except a 'contained fire.'

(Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1)

### Section 203. General Restrictions.

(a) No fire shall be set or maintained within fifty feet (50') of any building or property line within the Township, except for cooking on appliances designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).

(b) No fire shall be set or maintained on any public road, mountain land or public property within the Township.

(c) No fire shall be set or maintained which may endanger any building or property, except where such building or property is used by a fire department for training purposes.

(d) No fire shall be set or maintained which includes the burning of any hazardous or dangerous materials, including tires.

(e) No fires shall be set or maintained that exceed fifty (50) square feet.

(f) No fires shall be set or maintained between the hours of 9:00 p.m. and 7:00 a.m.

(g) This Part shall not apply to gas, charcoal or wood fires used for cooking purposes.

(Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1)

Section 204. Uncontained Fires. Uncontained fires shall be allowed to burn subject at all times to the following restrictions:

(a) No uncontained fire shall be allowed to burn whenever drought or extreme weather conditions exist or when a ban on burning has been put into effect by the Commonwealth of Pennsylvania, the County of Berks or the Township Supervisors. Notice of such restriction shall be given by notice in a newspaper of general circulation and by posting a notice at the Township office or by giving such other notice as the Township shall deem appropriate.

(b) The Berks County Fire Communications Center, Hamburg Fire Company and Shartlesville Fire Company, as appropriate, must be notified prior to burning any uncontained fire.

(c) The Tilden Township Police Department and the Desk Officer at the Pennsylvania State Police, Hamburg Barracks must be notified in the event a fire continues to burn after dusk.

(d) No uncontained fire shall be maintained unless constantly attended by at least one competent adult.

(e) Any uncontained fire which is permitted to burn in an unsafe manner, under adverse weather conditions or which is unsupervised or which is determined

to be unsafe by an official of the fire company or an officer of the Tilden Township Police Department shall be extinguished immediately upon demand by such official or officer.

(Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1)

Section 205. Burning of Designated Recyclables and Yard Waste is Prohibited. The burning of designated recyclables and yard waste if designated as a recyclable by the Board of Supervisors, as determined from time to time by the Board of Supervisors as directed by the Garbage and Recycling Ordinances of the Township, is hereby prohibited at all times within the Township of Tilden. (Ordinance No. 189, November 1, 2008, Section 1)

Section 206. Penalties. Any person, firm, corporation or other entity who shall violate any provision of this Part may, upon conviction thereof before a District Justice, have prescribed by the Board of Supervisors criminal fines not to exceed one thousand dollars (\$1,000.00) per violation, plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and all fees and costs incurred by the Township, fire department or forest service to extinguish the fire in violation of this Part, and may have prescribed imprisonment to the extent allowed by law for the punishment of summary offenses. Each day that a violation of this Part continues after notice shall constitute a separate offense. (Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1; as further amended by Ordinance No. 183, December 1, 2007, Section 1; as further amended by Ordinance No. 189, November 1, 2008, Section 1)

Section 207. 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 Tilden Township that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein. (Ordinance No. 108, August 6, 1996, Section 1; as amended by Ordinance No. 167, June 10, 2006, Section 1; as further amended by Ordinance No. 189, November 1, 2008, Section 1)