

**CHAPTER 7**

**FIRE PREVENTION AND FIRE PROTECTION**

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**PART 1****INSURANCE PROCEEDS****SECTION 7-101. Purpose.**

The Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective September 7, 1992, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims. It is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration. The Borough of Harmony desires to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Borough.

*(Ord. 329, 07/06/1993, §1)*

**SECTION 7-102. Designated Officer.**

The Secretary of the Borough of Harmony or such official as the Borough Council may from time to time designate is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

*(Ord. 329, 07/06/1993, §2)*

**SECTION 7-103. Pre-Condition to Payment of Claim by Insurance Company.**

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 Borough of Harmony where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand (\$5,000.00) Dollars, unless the insuring agent is furnished by the Borough’s treasurer 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 ordinance.

*(Ord. 329, 07/06/1993, §3)*

**SECTION 7-104. Required Certificates and Payment Over of Moneys to the Borough.**

Where, pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the Borough treasurer issued a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided,

however, that if the loss agreed upon by the named insured and the insuring agent equals or exceeds sixty (60) percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

1. The insuring agent shall transfer from the insurance proceeds to the Borough secretary in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and 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 Borough shall be \$1,000.00; or

2. 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 of removing, repairing or securing the building or other structure, the insuring agent shall transfer to the Borough from the insurance proceeds the amount specified in the estimate.

3. The transfer of proceeds shall be on a pro rata basis by all companies, associates or exchanges insuring the building or other structure.

4. 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 Borough secretary shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building or other structure.

5. Upon receipt of proceeds under this section, the Borough shall do the following:

(a) The Borough secretary shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing or securing the building or structure which are incurred by the Borough. Such costs shall include without limitation any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(b) It is the obligation of the insuring agent when transferring the proceeds to provide the Borough 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 Borough secretary 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 subsection shall be followed; and

(c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the Borough secretary, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough 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 Borough shall transfer the remaining funds to the named insured; and

(d) To the extent that interest is earned on proceeds held by the Borough pursuant to this section and not returned to the named insured, such interest shall belong to the Borough. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time the proceeds are returned.

6. Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

*(Ord. 329, 07/06/1993, §4)*

#### **SECTION 7-105. Promulgation of Rules and Regulations.**

The Borough may, by resolution, adopt procedures and regulations to implement Act 98 of 1992 and this ordinance and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this ordinance, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

*(Ord. 329, 07/06/1993, §5)*

#### **SECTION 7-106. Penalty.**

Any owner of property, any named insured or any insuring agent who violates this Chapter and Part shall be subject to a penalty of up to \$1,000.00 per violation, plus costs of prosecution.

*(Ord. 329, 07/06/1993, §6)*

**SECTION 7-107. Severability.**

The provisions of this Chapter and Part shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Chapter and Part shall remain in effect.

*(Ord. 329, 07/06/1993, §7)*

**SECTION 7-108. Repealer.**

All ordinances or parts of ordinances conflicting with any of the provisions of this Chapter and Part are hereby repealed insofar as the same affects this Chapter and Part.

*(Ord. 329, 07/06/1993, §8 Ord. 372, 6/6/2006)*

**PART 2**  
**OPEN BURNING**

**SECTION 7-201. Prohibition.**

It shall be unlawful for any person, firm or corporation to burn waste paper, rubbish or other material outside of any building within the limits of the Borough except between the hours of 7:00 a.m. and 7:00 P.M. and there shall be no burning between the hours of 7:00 P.M. Saturday until 7:00 a.m. Tuesday, and in the manner hereinafter provided.

*(Ord. 299, 08/25/1987, §1)*

**SECTION 7-202. Containing Fire.**

All waste paper, sweepings and ordinary rubbish to be destroyed shall be burned only in a proper receptacle so constructed as to prevent the spreading of fire and sparks and so located as not to endanger any building or other structure.

*(Ord. 299, 08/25/1987, §2)*

**SECTION 7-203. Extraordinary Rubbish.**

Extraordinary rubbish or material may be burned outside of a receptacle between the above-named hours, providing the fire is so located as not to endanger buildings or other structures, and some person is continually in charge during the burning, and the burning refuse or ashes be completely extinguished by water or other suitable material.

*(Ord. 299, 08/25/1987, §3)*

**SECTION 7-204. Penalties.**

Any person, firm or corporation violating any of the provisions of this Chapter and Part shall be liable to a fine of \$100.00 for the first offense, and \$250.00 for each succeeding offense, the same to be for the use of the Borough of Harmony and to be collected as like fines and penalties are now by law collectible.

*(Ord. 299, 08/25/1987, §4, Ord. 372, 6/6/2006)*

**SECTION 7-205. Exceptions/Special Permits.**

Notwithstanding anything to the contrary contained herein, it shall not be unlawful for any person firm or corporation to utilize a charcoal or gas grill outside of the hours enumerated in Section I above for a family cookout or like gathering. However, for ox roasts, pig roasts or larger non-immediate family cookouts or barbecues or other gatherings, a special permit shall be obtained from Council to conduct such a gathering.

*(Ord. 299, 08/25/1987, §5)*

**SECTION 7-206. Volunteer Fire Company.**

Notwithstanding anything to the contrary contained herein, the Volunteer Fire Department may request permits to perform periodic training exercises.

*(Ord. 299, 08/25/1987, §6)*

**PART III****VOLUNTEER FIRE COMPANY****SECTION 7-301. Fire Hall.**

That the duly qualified members of the Harmony Volunteer Fire Company and Relief Association be and they are hereby empowered, at no cost to the Borough, individually and collectively, to maintain and keep in repair the Fire Hall in proper condition for the purpose of having the fire appointers and conducting the affairs of the fire company.

*(Ord. 372, 6/6/2006)*

**SECTION 7-302. Additional Duties.**

In addition to the required duties of each of said Volunteer Fireman of said Association, the following are declared to be specific duties of said Volunteer Fireman, who shall, in the performance of their duties require or demand no remuneration from the Borough of Harmony, to-wit: the maintaining and repairing of the Fire Alarm or Siren, the flushing of hydrants within the Borough, and the cleaning of Borough Sewers with water pressure from fire hose.

*(Ord.*

*372,*

*6/6/2006)*

**PART IV****COLLECTION OF FEES AND COSTS****SECTION 7-401. Fire Prevention and Protection Fees.**

A. The Harmony Borough Council finds that increasing costs of providing adequate fire prevention and protection services and other public safety and emergency services, including services resulting from extraordinary and dangerous occurrences and hazardous material incidents, seriously impair the Volunteer Fire Company's ability to provide all necessary Fire Company services.

B. In order to better protect the public health, safety and welfare and to protect and preserve public funds and tax dollars, the Harmony Borough Council in keeping with Article XII, Corporate Powers of the Borough Code Act of February 1, 1966, (1965 P.L. 1656, No. 581), as amended, specifically Sections 1202(2) and 1202(74), hereby establishes that the Borough adopt a policy of reimbursement of expenses and costs incurred by the Harmony Volunteer Fire Company in providing the various services which they offer. The schedule of reimbursement shall adequately reflect all costs and expenses incurred and in no case shall be less than the schedule set forth in Section 403 below.

*(Ord. 361, 01/02/2001, §2)*

**SECTION 7-402. Collection of Fees.**

A. An officer designated by the Volunteer Fire Company rendering services shall collect all fees for fire prevention and protection services and for other public safety and emergency services. Such fees may include and encompass all manpower, equipment, materials, maintenance and overhead expenses and costs which shall constitute full reimbursement to the volunteer Fire Company for such services actually rendered and is hereinafter authorized.

B. Within thirty (30) days of the date of providing fire prevention and protection service or other public safety and emergency services as enumerated in Section 403, the officer designated by the Volunteer Fire Company rendering the service shall submit a bill for all costs, fees, charges and expenses related to the provisions of such services to the property owner or the property owners designated agent or representative. All such bills shall be paid in full within sixty (60) days of the receipt thereof, and interest shall accumulate thereafter on any unpaid balances at the rate of ten (10%) percent per annum until paid.

C. In addition, any bills, fees, or penalties, including, but not limited to cleanup costs, fees or expenses that are imposed upon the Volunteer Fire Company by local, state

and federal agencies and related to the same situation or occurrence for which the Volunteer Fire Company responded may be in the billing or may be billed separately within thirty (30) days of receipt and shall be paid as provided in Section 402(B), above.

*(Ord. 361, 01/02/2001, §2)*

**SECTION 7-403. Fees Authorized.**

The following are authorized:

- A. Residential Fire Response up to Five Hundred (\$500.00) dollars.
- B. Apartment Fire Response (per apartment) up to Five Hundred (\$500.00) dollars.
- C. Commercial Fire Response up to One Thousand (\$1,000.00) dollars.
- D. Industrial Fire Response up to Five Thousand (\$5,000.00) dollars.
- E. Other Structure Response up to One Thousand (\$1,000.00) dollars.
- F. Vehicle, Rubbish, Trash, or Other Fire Response up to Two Thousand (\$2,000.00) dollars.
- G. Standby Response for Utility Service Interruptions up to One Hundred Fifty (\$150.00) dollars.
- H. Vehicle, Airplane or Rail Service Accident Response up to One Hundred Fifty (\$150.00) dollars per hour, per vehicle.
- I. Extrication Fee up to One Hundred Fifty (\$150.00) dollars per hour, per Victim.
- J. Hazardous Material Spill Response up to One Hundred Fifty (\$150.00) dollars per hour, per vehicle. Plus any material or supplies used.

*(Ord. 361, 01/02/2001, §2)*

**SECTION 7-404. Enforcement.**

The Harmony Volunteer Fire Company may enforce the provision of this Ordinance, at its own expense, by civil action in a court of competent jurisdiction for the collection of any amounts due here under, plus attorney fees, or for any relief that may be appropriate.

*(Ord. 361, 01/02/2001, §2)*