

**Chapter 6**  
**FIRE PREVENTION & PROTECTION**

**Part 1**  
**OUTDOOR BURNING**

- §6-101. Storage and Outdoor Burning Restrictions**
- §6-102. Violations and Penalties**

**Part 2**  
**SMOKING**

- §6-201. Definitions**
- §6-202. Public Buildings and Places of Public Assemblage**
- §6-203. Violation by Person Having Control**
- §6-204. Placarding Required**
- §6-205. Violation of Sign**
- §6-206. Exempted Areas**
- §6-207. Placing Lighted Objects Close to Combustible Matter**
- §6-208. Penalties**

**Part 3**  
**FIRE DEPARTMENT**

- §6-301. Authorization to Act**
- §6-302. Authorization to Perform**
- §6-303. Notification**
- §6-304. Reimbursement for Services**
- §6-305. Recognition of Firemen's Relief Association**
- §6-306. Certification to Auditor General**
- §6-307. Annual Appropriation**

**Part 4**  
**FIRE INSURANCE PROCEEDS**

- §6-401. Use of Fire Insurance Proceeds**
- §6-402. Limits of Liability**
- §6-403. Insurance Company Rights Reserved**
- §6-404. Construction**
- §6-405. Notification of Pennsylvania Department of Community and Economic Development**
- §6-406. Penalty**

**PART 1**

**OUTDOOR BURNING**

**§6-101. Storage and Outdoor Burning Restrictions**

No person, firm or corporation shall accumulate or store out of doors upon any public or private ground within the Borough, any rubbish or other inflammable material. No person shall burn any leaves or other material upon any of the streets, alleys or public grounds in the Borough. Nor shall any person burn any leaves or other material upon any private ground in the Borough except in metal receptacles or stoves or fire places constructed for the purpose, but such burning shall be permitted only on Tuesdays between 8:00 a.m. and 5:00 p.m. and on Saturdays between 8:00 a.m. and 12:00 p.m.

(Ord. 433, 9/26/1994, §1)

**§6-102. Violations and Penalties**

Any person, firm or corporation who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

(Ord. 433, 9/26/1994, §2; as amended by Ord. 494, 11/27/2000)

**PART 2**

**SMOKING**

**§6-201. Definitions**

For purposes of this Part, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BOROUGH – the Borough of Ebensburg, located in Cambria County.

COUNCIL – the elected Council members of the Borough of Ebensburg acting on behalf of said Borough.

PERSON – any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC BUILDING AND PLACES OF PUBLIC ASSEMBLAGES – are as hereinafter enumerated and specified.

SMOKING – the possession of a lighted cigarette, cigar, pipe or other lighted smoking equipment.

USE OF TOBACCO – tobacco use includes smoking or use of smokeless tobacco in any form.

(Ord. 422, 10/26/1992, §1)

**§6-202. Public Buildings and Places of Public Assemblage**

Public buildings and places of public assemblages are as hereinafter designated:

- A. The Central Cambria Middle School building.
- B. Every other public place or place of public assemblage where the persons in authority designate such area as being a no smoking area and place proper placards as hereinafter required.

(Ord. 422, 10/26/1992, §2)

**§6-203. Violation by Person Having Control**

It shall be unlawful for any person or his agent, having control or being responsible for having authority as to any public building or place of public assemblage, to knowingly permit a violation of this Part.

(Ord. 422, 10/26/1992, §3)

**§6-204. Placarding Required**

Every person or his agent, having control of public buildings and places of public assemblage as herebefore specified, shall conspicuously display upon the premises a sign reading "SMOKING AND THE USE OF TOBACCO PROHIBITED BY LAW." Such sign shall be at least 144 square inches in area.

(Ord. 422, 10/26/1992, §4)

**§6-205. Violation of Sign**

No person shall smoke or use tobacco in any properly placarded public building or place of public assemblage (as hereinbefore designated as such), nor shall any person remove any placard required to be erected by or under the authority of this Part.

(Ord. 422, 10/26/1992, §5)

**§6-206. Exempted Areas**

Smoking shall be permitted in areas as exempted by the Fire and Panic Act, Act of April 27, 1927, P.L. 465, No. 299, as amended, 1988, December 21, P.L. 1315, No. 168 §2, 35 P.S. §1230.1(d).

(Ord. 422, 10/26/1992, §6)

**§6-207. Placing Lighted Objects Close to Combustible Matter**

No person shall throw or place hot or burning substance or objects such as cigars, cigarettes or the contents of a burning pipe, upon or in close proximity to any public or private premises, object or structure, or in any public street or place where there is material or condition which is combustible or liable to damage by heat, fire or explosion.

(Ord. 422, 10/26/1992, §7)

**§6-208. Penalties**

Any person, firm or corporation who shall violate any provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

(Ord. 422, 10/26/1992, §1; as amended by Ord. 424, 8/3/1993, §1; and by Ord. 494, 11/27/2000)

**PART 3**

**FIRE DEPARTMENT**

**§6-301. Authorization to Act**

In addition to the normal firefighting duties of the members of the Dauntless Fire Company and the activities as set forth in the aforesaid acts, which activities are hereby authorized; the members of the Dauntless Fire Company are authorized to:

- A. Answer any type of fire, alarm or call, whether general fire alarm, private call or investigation of fire, report or emergency call of any type inside or outside Ebensburg Borough.
- B. Engage in any type of drill, training, ceremonial, practice, test or parade when duly called or authorized by a proper officer or officers of the Dauntless Fire Company.
- C. Engage in the performance of any duty authorized by a proper officer or officers of the Dauntless Fire Company.
- D. Participate in pumping contests at State, County and local conventions as authorized by a proper officer or officers of the Dauntless Fire Company.
- E. Participate in fund raising and fund solicitation programs, including door to-door canvassing for the annual fund drive, upon proper authorization by a proper officer or officers of the Dauntless Fire Company.
- F. Participate in the Cambria County Fair as requested.
- G. Other fire company functions, as authorized by officers of the Dauntless Fire Company.
- H. Subject to the above provisions, this Part shall not be otherwise construed to expand, extend or enlarge the coverage provided by the Workers Compensation Act of Pennsylvania.

(Ord. 399, 1/28/1985, §1; as amended by Ord. 494, 11/27/2000)

**§6-302. Authorization to Perform**

In keeping with the aforesaid provisions of this Part, the members of Dauntless Fire Police are authorized to engage in the performance of any duty authorized by any officer or officers of the Dauntless Fire Company and/or the Ebensburg Borough Chief of Police or, if none, of a member of the Pennsylvania State Police in accordance with 35 P.S. §§1201-1203 inclusive.

(Ord. 399, 1/28/1985, §2)

**§6-303. Notification**

Members of the Fire Company shall notify the workers' compensation insurance carrier of all activities in which they intend to participate to insure compensation coverage. Notice of such activities shall also be provided to Borough Council by not later than January 15 of each year.

(Ord. 399, 1/28/1985, §3; as added by Ord. 455, 10/28/1996)

**§6-304. Reimbursement for Services**

- A. The Borough of Ebensburg hereby authorizes the Dauntless Volunteer Fire Company to collect from persons who use their services as a result of a call from that person using the said services a sum sufficient to reimburse the said fire company in full for the time and effort spent by the said volunteer agency.

- B. The said Borough shall have the right to ask for reimbursement where services are rendered by the said Borough under similar circumstances at the request of a party.
- C. The Borough shall have the right, in the event that the said payment is not made, to pursue these remedies in the Court of Common Pleas of Cambria County and to turn the successful completion of these processes over to the respective company which had rendered the services.
- D. For purposes of this Part, the charges for use of Borough and Dauntless Volunteer Fire Company emergency services equipment, material and personnel shall be established by the Board of Trustees of the Dauntless Volunteer Fire Company.

(Ord. 466, 12/15/1997, §§1-4)

**§6-305. Recognition of Firemen's Relief Association**

- A. The following association is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Borough.

Relief Fund Association of the Dauntless Fire Company

- B. The above named association has been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.
- C. The above named association of the Borough is designated the proper association(s) to receive such funds as are due and payable to the Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(Ord. 105, 1/26/1931; as revised by Ord. 494, 11/27/2000)

**§6-306. Certification to Auditor General**

The Borough Council shall annually certify to the Auditor General of the Commonwealth, the name(s) of the active associations and the percentage of service they contribute to the protection of the Borough. Such certification shall be on forms prescribed by the Auditor General.

(Ord. 105, 1/26/1931; as revised by Ord. 494, 11/27/2000)

**§6-307. Annual Appropriation**

There is annually appropriated from the Borough Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, §701 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

(Ord. 105, 1/25/1931; as revised by Ord. 494, 11/27/2000)

**PART 4**

**FIRE INSURANCE PROCEEDS**

**§6-401. Use of Fire Insurance Proceeds**

- A. No insurance company, association or 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 Borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Borough Treasurer with a certificate pursuant to 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 508(c) and (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 Borough has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Borough Secretary/Treasurer shall immediately render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax 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 shall furnish a certificate within 14 working days after the request, to the insurer, a certificate (or at his discretion an oral notice confirmed in writing) 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 subsection (A) of this Section, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection (3) hereof.

- C. When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this Section, or where the Treasurer has issued a certificate described in subsection (2)(A) 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 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 Treasurer, in the aggregate, \$2,000 for each \$15,000 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 Borough, 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 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 shall do the following:
  - (1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Borough 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 Borough in connection with such removal, repair or securing or any proceedings related thereto; and,
  - (2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Borough and that the procedures under this subsection shall be followed.
  - (3) After the transfer, the named insured may submit to the Borough a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Borough in excess of that required to pay the municipal expenses; provided, the Borough has not commenced to remove, repair or secure the building or other structure, in which case the Borough will complete the work.
  - (4) Pay to the Secretary/Treasurer, for reimbursement to the Borough general fund, the amount of the municipal expenses paid by the Borough.
  - (5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Secretary/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 Borough.
  - (6) Nothing in this Section shall be construed to limit the ability of the Borough 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 codes of the Borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Borough may deem responsible.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

#### **§6-402. Limits of Liability**

Nothing in this Ordinance 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 Ordinance or to make this Borough, any Borough official, a municipality or public official 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.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)



**§6-403. Insurance Company Rights Reserved**

An insurance company, association or exchange making payment of policy proceeds under this Part for delinquent taxes or structure removal liens or removal expenses incurred by the Borough shall have a full benefit of such payment including all rights of subrogation and of assignment.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

**§6-404. 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.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

**§6-405. Notification of Pennsylvania Department of Community and Economic Development.**

The Secretary of the Borough shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)

**§6-406. 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 a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day on which an offense shall continue shall be deemed a separate offense.

(Ord. 421, 10/26/1992; as revised by Ord. 494, 11/27/2000)