

CHARLESTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 100 OF 2002

AN ORDINANCE TO PROMOTE THE SAFETY AND GENERAL WELFARE OF THE RESIDENTS OF CHARLESTOWN TOWNSHIP AND OCCUPANTS OF BUILDINGS REGULATING OPEN BURNING, FIREWORKS, HAZARDOUS MATERIALS, PRESCRIBING REGULATIONS COVERING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE, EXPLOSION AND/OR HAZARDOUS MATERIALS AND PRESCRIBING PENALTIES FOR VIOLATIONS.

AND NOW, this 4th day of February, 2002, the Board of Supervisors of Charlestown Township hereby enacts and ordains as follows:

SECTION 1. Short Title.

This Ordinance shall be known as the "Charlestown Township Fire Control and Hazardous Materials Ordinance."

SECTION 2. Public Nuisance.

Charlestown Township hereby declares as public nuisances the creation of any fire hazard and the unsafe storage or deposit of any hazardous material or chemical within Charlestown Township.

SECTION 3. Definitions.

For purposes of this Ordinance, the following words shall have the following meanings:

"Fire Marshal" shall mean the individual duly appointed from time to time by the Board of Supervisors of Charlestown Township to serve as the Township Fire Marshal.

"Fire Department(s)" shall mean, individually and collectively, the Kimberton Fire Company, East Whiteland Township Volunteer Fire Association and any other fire department or agency designated to provide fire protection services in Charlestown Township.

"Fire Hazard" shall mean any condition or practice contrary to generally accepted fire safety practices, posing a significant risk of fire or explosion or contrary to the standards set forth in Section 13 of this Ordinance.

"Fireworks" shall mean firecrackers, rockets, torpedoes, roman candles, toy cannons, detonating canes, blank cartridges, and other devices designed and intended for pyrotechnic display.

"Hazardous Materials". For purposes of this Ordinance, "hazardous materials" shall mean any substances of the following categories in any quantity. The quantities listed are for purposes of the reporting requirement of Section 12 herein below:

- A. Poison – Highly Toxic: any quantity
- B. Bio-hazard – Infectious Material – any quantity
- C. Explosives – any quantity
- D. Radiological – greater than 500 mCi or any quantity if half-life greater than 1 year
- E. Flammable solids: greater than 25 pounds
- F. Corrosive liquids: greater than 55 gallons
- G. Oxidizing materials: greater than 500 pounds

- H. Organic peroxides: greater than 10 pounds
- I. Ammonium Nitrate, Ammonium Nitrate fertilizers and fertilizer mixtures: greater than 1000 pounds except for agricultural use on the premises where stored when the quantity is greater than 8000 pounds
- J. Flammable liquids: greater than 60 gallons
- K. Combustible liquids: greater than 110 gallons except heating oil for use on the premises where stored when the quantity is greater than 1100 gallons
- L. Cryogenic Liquids – non-flammable: greater than 500 gallons
- M. Cryogenic Liquids – all other: greater than 10 gallons
- N. Compressed gases – Flammable: greater than 2,000 gallons individual water capacity or an aggregate water capacity of 4,000 gallons
- O. Compressed gases – Nonflammable: greater than 10,000 gallons individual water capacity or an aggregate water capacity of 20,000 gallons
- P. Hazardous material not otherwise classified: Any quantity

“Person” shall mean an individual, partnership, corporation, association or other organization or entity.

SECTION 4. Bonfires, open fires and outdoor fireplaces.

- a) It shall be unlawful to cause, allow, permit, kindle, ignite or maintain any bonfire, junk fire, rubbish fire, open fire, salvage operations fire used to salvage or reclaim any product or material (including but not limited to metals or chemicals), or other open fire on any public or private street or road, public property, or private property within the limits of Charlestown Township; except the following:
 - i) Any fire set for the purpose of burning leaves or waste paper on the premises of a single family detached structure occupied solely as a dwelling by one family and when such leaves and waste paper are generated solely by and result from the normal occupancy of said structure;
 - ii) Any fire set solely for recreational or ceremonial purposes;
 - iii) Any fire set solely for cooking food;
 - iv) Field fires for agricultural purposes.
- b) All fires permitted by Section 4a) above must comply with the following requirements:
 - i) All fires must be contained in incinerators or proper receptacles approved by the Fire Marshal as safe and not hazardous to life or property;
 - ii) A responsible individual equipped to extinguish the fire shall be present at all times and shall properly extinguish the fire if an emergency arises, if it is deemed to be a nuisance by the Fire Marshal, Fire Chief, Police department or Municipal Official and at the conclusion of the fire;
 - iii) All fires shall be a minimum distance of thirty feet (30') from any dwelling or structure and thirty feet (30') from any property line;
 - iv) The Chester County 911 center shall be notified prior to kindling or igniting any permitted fire under Section 4.a.i, ii, or iv and again at its conclusion. The telephone numbers to be used are 610-644-1224, 610-933-8966 or 610-436-4704;
 - v) Fires for burning leaves or waste paper shall not be kindled, ignited or maintained before sunrise or after sunset prevailing time as determined by the weather bureau;

- vi) All fires may be prohibited by the Fire Marshal when atmospheric conditions or local circumstances make such fires hazardous to health or property, when such prohibition is imposed by Chester County or the Commonwealth of Pennsylvania or when deemed necessary due to prolonged dry weather;
- vii) Field fires to clear land for agricultural purposes may be set only by permit issued by the Fire Marshal at times and under circumstances and regulations determined by the Fire Marshal. Provided however, field fires may not be kindled, ignited or maintained before sunrise or after sunset prevailing time as determined by the weather bureau;
- viii) Outdoor fireplaces and cooking grilles shall not be used when, in the judgement of the Fire Marshal, there is a risk of fire hazard.
- ix) Any permitted fire may be extinguished by the Fire Company either with or without the consent of the landowner or person in charge if, in the opinion of the Fire Marshal, police officer, or fire officer that such fire constitutes a danger to persons or property or is deemed a nuisance fire (section 4.b.ii above).

SECTION 5. Fireworks.

- a) The manufacture, sale and display for sale of fireworks, and, except as provided in Section 5.b) below, the possession, use, display or discharge of fireworks is prohibited within the limits of Charlestown Township.
- b) Pyrotechnic displays may be held only by permit issued by the Fire Marshal and must be under the control of licensed and insured individuals. The time, place and manner of such display shall be approved by the Fire Marshal. At a minimum, the permittee, at his expense, must have a properly equipped and manned Fire Department fire suppression vehicle on location during the pyrotechnic display.

SECTION 6. Automatic Alarms

- a) Automatic alarms that are determined to be false by the Fire Marshal, Fire Chiefs of the Fire Departments serving the Township, or their designees are subject to fines in the amounts designated from time to time by Resolution if the Township Board of Supervisors.

The immediately preceding 12 month period, measured from the date of the false alarm, shall be the relevant time period for purposes of determining the numerical occurrence of the false alarm and the appropriate fine as designated by the aforementioned Resolution.

- b) For purposes of this Section 6, a false alarm is a signal activated by an automatic protection device given to the fire department to which the fire department responds, which, as determined by the Fire Marshal, Fire Chief or their designees, is not the result of a burglary, fire, robbery, medical, weather-related or similar emergency or power outage.
- c) The provisions of this Section 6 may be waived by the Fire Marshal on a case-by-case basis during extensive storms, power outages or other extenuating circumstances.
- d) The owners of all buildings and structures connected to an automatic protection device sounding or sending an alarm of any kind shall register said device with the Township on a form provided by the Fire Marshal. All automatic protection

devices existing in the Township on the effective date of this Ordinance shall be registered with the Township within 60 days of said effective date. All automatic protection devices installed after the effective date of this Ordinance shall be registered with the Township within 10 days of the initial arming of the alarm system.

SECTION 7. Parking of Vehicles.

a) Designation of Fire Lanes

The Fire Marshal may designate, by written notice to property owners, areas on public and private property as fire lanes in order to provide access to structures for emergency vehicles and egress for building occupants in the event of an emergency. Fire lanes shall be of sufficient width to permit the ingress, egress and mobility of emergency equipment. Within ten days of such written notice, property owners, at their expense, shall post the area designated with signs approved by the Fire Marshal identifying the area as a fire lane and prohibiting stopping, standing or parking at any time. Pavement markings, if required by the Fire Marshal, shall also be provided by the owner at his expense identifying the fire lane.

b) Prohibition on Parking, Standing and Stopping

It shall be unlawful to park, stand, stop or leave unattended any motor vehicle in a fire lane at all times.

c) Blocking Fire Hydrants and Fire Department Connections

It shall be unlawful to park within fifteen feet (15') of or restrict access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems, including those on both public and private streets or property. Unlawful restriction of access shall include locating dumpsters, dumping, or any other activity that restricts access to the hydrant or connection.

SECTION 8. Traffic Control Devices.

All new traffic control devices and existing devices which are replaced, expanded, relocated, or otherwise altered shall be equipped with emergency vehicle preemption signal devices (3M Opticom or equivalent), at the expense of the entity performing the work.

SECTION 9. Emergency Lock Box Rapid Entry Systems.

On all existing and new non-residential buildings and structures, which are, will or are intended to be used and/or occupied by humans, an emergency lock box rapid entry system (Knox Box or equivalent) shall be installed for the access of the Fire Departments, according to the specifications of the Fire Chiefs and Fire Marshal. Such specifications shall include but not be limited to the lock keying requirement and an inventory or list of contents required to be stored in the key box system.

SECTION 10. Fire Department Connections.

On all existing and new buildings and structures protected with a sprinkler system, the fire department connection shall be a 5" Storz connector that is directed toward the ground with a 30° to 35° elbow if required.

SECTION 11. Smoke Detectors.

All buildings intended or used for human occupancy shall be equipped with smoke detectors. All new construction or remodeled existing construction shall use AC powered units with battery backup and must be of an approved type.

SECTION 12. Reporting of Storage and/or Use of Hazardous Materials

- a) Any person or entity possessing, storing, handling and/or using any hazardous material in a quantity meeting or exceeding the amounts listed in Section 3 herein above shall file an annual report with the Fire Marshal. The initial annual report shall be made within 60 days of the effective date of this Ordinance. Subsequent reports shall be filed by March 30 of each calendar year.
- b) New reports shall be filed and all existing reports shall be updated within 72 hours of the receipt of new hazardous materials within categories not previously reported, or when previously reported materials increase or decrease by 50% of the amounts previously reported.
- c) The report shall be filed on a form prescribed by and available from the Township Fire Marshal. The filed report shall include a schematic diagram showing the location and quantity of all hazardous materials located in the facility.
- d) The report shall be accompanied by a fee in an amount designated from time to time by Resolution of the Township Board of Supervisors.
- e) A copy of the report shall be filed in the Township Office and a copy placed in the key box rapid entry system if required by Section 9 of this Ordinance.

SECTION 13. Applicable Standards; Storage Requirement

- a) The latest edition of the Suggested Fire Prevention Ordinance recommended by the National Board of Fire Underwriters shall be deemed to be the generally accepted practice for all matters of fire prevention both specifically covered and not covered by this Ordinance.
- b) The latest edition of the Standards of the National Board of Fire Underwriters for the storage, handling and use of hazardous materials and the installation, use and maintenance of oil burning equipment, as recommended by the National Fire Protection Association shall be deemed to be the generally accepted practice for all matters of storage, handling and use of hazardous materials both specifically covered and not covered by this Ordinance.

SECTION 14. Liability for Costs; Included Costs.

- a) The person responsible for the fire hazard or hazardous material condition shall be liable to the Township or Fire Department for all costs incurred as a result of supervision or verification of the cleanup, or for the actual cost of the cleanup incurred by the Fire Department, Township or their designees. The Fire Department or Township shall send an invoice to the responsible person or entity for all costs associated with the cleanup or abatement
- b) The costs of the cleanup described in Sections 14, 15 and 17 incurred by the Township or Fire Department shall include, but shall not necessarily be limited to, the following: actual labor costs of Fire Department and Township personnel, including benefits and administrative overhead; costs of equipment operation; costs of materials obtained directly by the Township or the Fire Department; costs of any contract labor and materials; costs of replacement of lost or damaged equipment and the costs of disposal and remediation.

SECTION 15. Responsible Persons and Entities.

Those persons and entities liable for cleanup and abatement, and the costs thereof, include: (1) any person or entity whose negligent or willful act or omission cause such release, discharge or deposit; (2) any person or entity who owned or had custody or control of the hazardous substance or the material at the time of such release, discharge or deposit, without regard to fault or proximate cause; (3) any person or entity who owned or had custody or control of the container which held such hazardous material or substance at the time of or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause; and (4) any person or entity who owned, occupied or had a leasehold interest in any real estate on which such hazardous materials were located or found, without regard to fault or proximate cause.

SECTION 16. Fire Suppression Services.

The authority to recover and the liability for costs under this Ordinance shall not include the expense of actual fire suppression services which are normally or usually provided by the Fire Department; provided, however, the expense of fire suppression services necessitated by the effects of the hazardous material shall be recoverable under this Ordinance.

SECTION 17. Inspection; Abatement

- a) The Fire Marshal, Fire Chiefs of the Fire Departments and their designees and/or such other persons as may be designated from time to time by the Board of Supervisors of Charlestown Township shall have the authority to, during regular business hours upon reasonable notice, enter any commercial building or premises or any building or premises that is required to make reports as described in Section 13 for the purpose of making an inspection to determine the presence of fire hazards and hazardous materials, whether proper fire safety measures are being taken and determine compliance with this Ordinance.
- b) The Fire Marshal, Fire Chiefs of the Fire Departments and their designees and/or such other persons as may be designated from time to time by the Board of Supervisors of Charlestown Township shall have the authority to notify any person or entity who unlawfully or negligently stores, releases, discharges, or deposits upon or onto any property, facilities or public roadway or premises within Charlestown Township, maintains a fire hazard, or otherwise violates this Ordinance, to correct the hazardous condition, and/or cleanup or abate the effects of said hazardous material. The notification shall be in writing, specify the hazardous material or hazardous condition identified, and specify a time period within which the hazardous material/condition must be cleaned up and/or abated. The Fire Marshal or Fire Chief may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement.
- c) In the event any person or entity so notified fails to cleanup or abate the hazardous material or condition, the Fire Department or Fire Marshal is authorized to effect the clean up or abatement of the fire hazard and/or the hazardous material unlawfully released, discharged, stored or deposited, upon or onto any property or facility within the Township.
- d) The Fire Department or Fire Marshal shall immediately effect the clean up and abatement of hazardous materials and/or conditions without notice to any person or entity when, in the judgment of the Fire Chief, Fire Marshal or his designee, an emergency situation exists. The costs of an emergency cleanup shall be recoverable as provided in this Ordinance.

SECTION 18. Permits.

Permit applications and report forms required by the terms of this Ordinance shall be obtained from the Township Administrator at the Township Office during regular business hours. The permit application and form shall be accompanied by a fee in an amount designated from time to time by Resolution of the Township Board of Supervisors. The permit may be issued by the appropriate Township official upon satisfaction of the applicable terms of this Ordinance. The permit shall be effective for the time indicated on the permit.

SECTION 19. Enforcement; Penalties

- a) The costs incurred by the Township and/or Fire Department, in accordance with Sections 14, 15 and 17 of this Ordinance shall be a municipal lien against the real estate at issue and shall be collectible as a lien or as otherwise provided by law. In addition, the Township and/or Fire Department may enforce the provisions of this Ordinance by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorneys fees or for any other relief that may be appropriate. Additionally, all costs incurred as aforesaid shall be billed to and collected from insurance companies providing liability coverage on the subject real estate, buildings and structures.
- b) Any person who shall violate this Ordinance and/or fail to comply with an order of the Fire Marshal, shall be liable, upon conviction thereof in a summary proceeding, for a fine not exceeding \$1000.00 for each and every offense. Each day a person shall continue a violation after written notice from the Fire Marshal of the violation shall constitute a separate offense punishable as aforesaid. Violations shall be cited by the Fire Marshal or a sworn police officer as Commonwealth of Pennsylvania non-traffic summary criminal citations.
- c) Any person who violates Section 7.b or 7.c above shall be subject to a summary traffic citation in the amount of \$50.00 plus court costs. If a vehicle is towed, the owner of the vehicle shall be liable for the costs of towing and storage. If a dumpster or dumping any other activity must be removed the owner of same shall be liable for the costs of removal.
- d) Any person turning a false fire alarm shall be subject to the penalties prescribed herein and any other applicable criminal and/or civil penalty.
- e) The provisions of this Ordinance may also be enforced by a civil proceeding, including but not limited to an action in equity to enforce compliance with mandatory requirements of the Ordinance.

SECTION 20. Compliance Date.

Existing buildings and structures shall have a period of one year from the effective date of this Ordinance to comply with Sections 9, 10 and 11 herein above.

SECTION 21. Severability.

If any term, condition, or provision of this Part shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

SECTION 22. Effective Date.

This Ordinance shall become effective five (5) days from the date of enactment.

ENACTED and ORDAINED this 4th day of February, 2002.

CHARLESTOWN TOWNSHIP
BOARD OF SUPERVISORS

Hugh Willig, Chairman

Paul Hogan, Vice Chairman

Irene Ewald, Supervisor

Kevin Kuhn, Supervisor

Michael Rodgers, Supervisor

ATTEST:

Linda Csete, Township Administrator

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