

ORDINANCE # 156

AN ORDINANCE OF WESTFALL TOWNSHIP PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF WESTFALL TOWNSHIP AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED STRUCTURE, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND ESTABLISHING PROCEDURES AND REQUIREMENTS REGARDING INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF ACT 98 OF 1992, AS AMENDED BY ACT 93 OF 1994 in WESTFALL TOWNSHIP.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992, as amended by Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, pursuant to 53 Pa. C.S.A. section 66506 of the Second Class Township Code, the Westfall Township Supervisors may make and adopt any ordinances, by laws, rules and regulations not inconsistent with or restrained by the Constitution and Laws of the Commonwealth necessary for the proper management, care and control of the Township and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers;

WHEREAS, the Westfall Township Supervisors intend to adopt an Ordinance pursuant to the Insurance Company Law of 1921 to deter the Commission of arson and related crimes, to discourage the abandonment of property, to prevent blight and deterioration and to provide for the payment of proceeds from fire loss claims to Westfall Township.

IT is therefore enacted by the Westfall Township Supervisors as follows:

SECTION 1

The Westfall Township Secretary or designee is hereby authorized and appointed as the designated officer who is directed to carry out all responsibilities and duties as set forth herein.

SECTION 2

No insurance company, association or exchange ("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 Westfall Township ("Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred (\$7,500.00) Dollars, unless the insuring agent is furnished by the municipal treasurer with a municipal certificate pursuant to the applicable provisions of the Insurance Company Law of 1921, as amended, and the provisions of this ordinance.

SECTION 3

- (a) The municipal treasurer shall, upon written request of the named insured specifying the tax description of the property, name and address of the insurance company, association or exchange and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a loss report of the claim, furnish the insurance company, association or exchange with one of the following within fourteen (14) working days of the request:
- (i) A certificate or, at the discretion of the municipality, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the treasurer's certificate or verbal notification, no municipality has certified any amount as total costs incurred by the municipality for the removal, repair or securing of a structure on the property;
 - (ii) A certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the treasurer's certificate, the amount of total costs, if any, certified to the treasurer that have been incurred by a municipality for the removal, repair or securing of a structure on the property. For the purpose of this sub clause, the municipality shall certify to the treasurer the total amount, if any, of such costs. A tax assessment penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the municipality under the applicable law.
- (b) Upon receipt of a certificate pursuant to (a) (i) of this subsection, the insurance company, association or exchange shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the structure. In the case of such a loss, the insurance company, association or exchange, the insured property owner and the municipality shall follow the procedures set forth in sub sections (d) and (e) of this section.

- (c) Upon receipt of a certificate and bill pursuant to (a) (ii) of this sub section, the insurance company, association or exchange shall return the bill to the treasurer and transfer to the treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs shown on the bill. The Municipality shall receive the amount and apply or credit it to payment of the items shown on the bill.
- (d) When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty (60%) percent of the aggregate limits of the liability on all fire policies covering the structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of two thousand (\$2,000.00) dollars for each fifteen thousand (\$15,000.00) dollars and each fraction of that amount of a claim, or, if at the time of a loss report the named insured has submitted a contractors signed estimate of the costs of removing, repairing or securing the structure in an amount less than the amount calculated under the foregoing transfer formula, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms. The named insured may submit a contractors signed estimate of the costs of removing, repairing or securing the structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured if the municipality has not commenced to remove, repair or secure the structure. This sub section only applies to municipalities that have adopted an ordinance authorizing the procedure described in sub sections (d) and (e) of this section and applies only to fire losses that occur after the adoption of the ordinance. The Ordinance shall designate the officer authorized to carry out the duties of this section.
- (e) Upon receipt of proceeds by the municipality the designated officer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing or securing incurred by the municipality. When transferring the funds as required in this ordinance, an insurance company, association or exchange shall provide the municipality with the name and address of the named insured, whereupon the municipality shall contact the named insured, certify that the proceeds have been received by the municipality and notify the named insured that the procedures under this sub section have been followed. The funds shall be returned to the named insured when repairs, removal or securing of the structure have been completed and the required proof received by the designated officer of the municipality which has not incurred any costs for repairs, removal or securing. If the municipality has incurred costs for the repairs, removal or securing of the structure, the costs shall be paid from the fund, and, if excess funds remain, the municipality shall transfer the

remaining funds to the named insured. Nothing in this section shall be construed to limit the ability of the municipality to recover any deficiency. Nothing in this section shall be construed to prohibit the municipality 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.

- (f) Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with sub section (d) of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange with subsection (d) of this section.
- (g) Nothing in this section 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 section or to make 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 section.
- (h) An insurance company, association or exchange making payments of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by a municipality shall have a full benefit of such payment, including all rights of subrogation and of assignment.

SECTION 4

The Township Board of Supervisors may by resolution adopt procedures and regulations to implement this ordinance and may by resolution fix reasonable fees to be charged for services provided pursuant to this ordinance.

SECTION 5

Any owner of property, any named insured or any insuring agent who violates this ordinance shall be subject to a penalty of up to \$500.00 per violation.

SECTION 6

The provisions of this ordinance shall be severable and if any of the provisions shall be held to be invalid or unenforceable, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 7

All ordinances or parts of ordinances conflicting with any of the provisions of this ordinance are hereby repealed in so far as same affects this ordinance.

SECTION 8

This ordinance shall become effective immediately.

ORDAINED and **ENACTED** this 5 day of June, 2012.



ROBERT EWBank, Chairman



PAUL FISCHER, Vice-Chairman



RAYMOND BANACH, Supervisor



LARRY FLANSBURG, Supervisor



ROBERT MELVIN, Supervisor

ATTEST:


LISA GREEN, SECRETARY

ORDAINED AND ENACTED at a duly assembled public meeting by the Board of Supervisors of Westfall Township, this 5th day of June, 2012.

WESTFALL TOWNSHIP
BOARD OF SUPERVISORS
FIRE LOSS ORDINANCE
PROCEDURES FOR ESCROW RELEASE

In all cases of a fire loss where an escrow is required pursuant to the Westfall Township Fire Loss Ordinance, the following shall apply:

- a. A Demolition Permit must be acquired prior to site cleanup commencing.
- b. All delinquent real estate taxes shall be paid from the Escrow account prior to any release of funds to the insured.

In cases where the property owner and/or insured does NOT intend to rebuild the structure, the following shall apply:

- a. The securing and removal of hazards shall return the property to its natural state and includes, but is not limited to, sealing of well(s) in accordance with the Township Well Ordinance, filling or removal of sewage tanks, removal of fuel tanks, removal of all debris, and filling of below grade foundations.
- b. If the loss was to a primary residence on the property, all accessory buildings must also be removed.
- c. Escrow funds shall be released following inspection by the Township that the site has been satisfactorily cleaned up and secured in accordance with this Procedure and terms of the Demolition permit, and upon approval by the Westfall Township Board of Supervisors.

In cases where the property owner and/or insured intend to repair or replace the structure, the following shall apply:

- a. The securing and removal of hazards shall include the removal of all debris in accordance with the terms of the Demolition Permit
- b. A partial release of escrow funds may be approved following satisfactory cleanup of the site and issuance of a building permit for repair or rebuilding, and upon approval of the Board of Supervisors.
- c. The amount of a partial escrow release shall include the cost of the site cleanup and various incidentals, but shall not be in an amount that will preclude the remaining escrow funds to cover the securing of the site as outlined in Item 2. In most cases, the minimum amount of funds to be retained in escrow will average \$5,000.00.
- d. Final release of all escrow funds shall occur following issuance of a Certificate of Occupancy and upon approval by the Board of Supervisors.