

**WYSOX TOWNSHIP
ORDINANCE NO. 2009-02**

AN ORDINANCE OF WYSOX TOWNSHIP, BRADFORD COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROHIBITING PAYMENT OF FIRE INSURANCE CLAIMS UNTIL THE INSURANCE COMPANY AND INSURED HAVE COMPLIED WITH THE REQUIREMENTS SET FORTH HEREIN. BE IT ORDAINED AND ENACTED BY WYSOX TOWNSHIP, BRADFORD COUNTY AS FOLLOWS:

SECTION I - DEFINITIONS.

The following words and phrases when used in this Article shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section:

THE STATUTE - The Insurance Company Law of 1921, as amended and set forth in 40 P.S. § 638, a copy of which is attached hereto and incorporated by reference as though set forth at length herein.

TOWNSHIP - The Township of Wysox, Bradford County, Pennsylvania.

COSTS FOR REPAIRS, REMOVAL OR SECURING OF A STRUCTURE - All costs actually incurred by the Township for repairs, removal or securing of a structure damaged by fire including, but not limited to, all of the following:

A. The actual labor costs of every Township employee involved in the repairing, removing or securing;

B. The charges by any contractor or subcontractor for labor, materials or services;

C. Inspection fees;

D. Engineering fees;

E. Architectural fees;

F. Attorney's fees; and

G. Administrative fee of ten percent (10%) of the total fees and costs.

INSURED - Every individual, person, firm and corporation identified by name in a policy of insurance insuring against losses sustained on account of fire to which this Article applies.

INSURER - Every insurance company, association, exchange, and other entity paying a claim for fire damage sustained by a structure or building located within the Township of Wysox.

LOSS - Fire damage sustained by any structure or building situate within the Township of Wysox.

PERSON - Includes an individual, firm, corporation and other entity.

PROPERTY - Every piece, parcel or tract of real estate located in the Township of Wysox.

SECRETARY - The duly appointed Secretary of the Township of Wysox.

STRUCTURE - Every building or other structure located upon property located in the Township of Wysox.

TAX COLLECTOR - The elected, or appointed, Real Estate Tax Collection for the Township of Wysox.

TAX PARCEL NUMBER - The tax parcel identification number assigned from time to time to the property by the Tax Assessment Office of Bradford County, Pennsylvania.

SECTION II - REQUIREMENTS FOR PAYMENT OF CLAIM.

Pursuant to 40 P.S. § 638(a), no insurer doing business in the Commonwealth of Pennsylvania shall pay a claim of an insured for fire damage to a structure on a parcel located within the Township where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.00) unless and until the insurer complies with each of the following requirements:

A. The insurer receives a certificate pursuant to the provisions Pennsylvania Statute 40 P.S. § 638(b) and this Ordinance.

B. The insurer transfers from the insurance proceeds the amount required under Section 40 P.S. § 638(c) of statute and the Provisions of this Ordinance; and

C. The insurer provides the Secretary with the information regarding the insured required under Section 40 P.S. § 638 (d) of the statute and the provisions of this Ordinance.

SECTION III - OBLIGATION OF INSURED AND TOWNSHIP OFFICIALS.

A. Pursuant to the provisions Pennsylvania Statute 40 P.S. § 638(b), when a structure on property located within the Township sustains fire damage, and on account of which the amount recoverable for the fire loss to the structure under all policies of insurance issued by an insurer exceeds seven thousand five hundred dollars (\$7,500.00), the named insured shall submit a written request to the Township Treasurer, signed by every name insured, which written request shall contain all the information as hereinafter provided and the Township Treasurer shall issue to the insurer within fourteen working days of the request:

(1) A certificate, or at the discretion of the Township, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date agreed upon by the Insurer and the named insured as the date of the receipt of a loss report of the claim, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the certificate, or verbal notification the Township has not certified any amount as total costs incurred by the Township for the removal, repair or securing of a structure on the parcel;
or

(2) Certificate and bill, as certified by the Tax Collector, showing, as of the date of the certificate, the following:

(a) The amount of delinquent taxes, assessments, penalties and user charges, if any, against the property specified in the Request that have not been paid; and

(b) The amount of total costs, if any, that have been incurred by the Township for the removal, repair or securing of a structure on the property.

B. 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 Township under applicable law.

SECTION IV - ADDITIONAL REQUIREMENTS FOR PAYMENT OF CLAIM.

Upon the receipt of a certificate issued by the Township Treasurer to an insured pursuant to section 40 P.S. § 638(b)(1)(i) of the Statute, as amended, the insurer may pay the claim of the insured in accordance with the policy terms, unless the loss agreed to between the insured and the insurer equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire insurance policies covering the structure. In the case of such a loss, the insurer shall follow the procedures set forth in sections 40 P.S. § 638(c) and (d) of the Statute.

SECTION V - TAXES.

A. Upon the receipt of a certificate and bill pursuant to Section 40 P.S. § 638(b)(1)(ii) of the Statute, the insurer shall return the bill to the Tax Collector and transfer to the Tax Collector the lesser of the following amounts:

(1) An amount from the insurance proceeds necessary to pay the taxes, assessment, penalties, charges and costs as shown on said bill; or

(2) The total amount of the insurance proceeds.

B. The Township shall receive the amount and apply or credit it to payment of the items shown in the bill.

SECTION VI - COSTS.

A. Pursuant to 40 P.S. § 638(c), when the loss agreed to between the insured and the insurer equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire insurance policies covering the structure, the insurer shall transfer to the Township Secretary from the insurance proceeds.

(1) In the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00) and each fraction of that amount of a claim; or

(2) If at the time of a loss report the named injured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under subsection 6(A)(1) of this ordinance, the insurer shall transfer from the insurance proceeds the amount specified in the estimate.

B. Pursuant to 40 P.S. § 638(c), the transfer of proceeds shall be on a prorata basis by every insurer insuring the structure, building or the property. The insurance policy proceeds remaining after the transfer to the Secretary shall be disbursed in accordance with the policy terms.

SECTION VII - RECEIPT OF PROCEEDS BY THE SECRETARY.

Pursuant to 40 P.S. § 638(d), upon receipt of fire insurance proceeds as contemplated by this Article and the Act, the Secretary shall deposit the proceeds in an interest bearing account with any federally insured bank or savings and loan association. Every account shall comply with the following requirements:

A. A separate account must be established for each insured fire loss; provided that in the event the amount received for any one (1) loss is in excess of the amount that may be federally insured by any one (1) institution, then the amount received shall be placed so that the entire amount received, and any interest thereafter earned, may be fully insured;

B. The account shall bear the name of each insured followed by the identifier "Fire Escrow Fund";

C. The account shall contain the social security number or the federal tax identification number, if applicable, of one (1) of the insured;

D. Until the proceeds are disbursed according to the provisions of this Article or the provisions of the Act, all interest earned on said proceeds shall remain in said account or accounts and shall be available to pay any costs

for repairs, removal or securing of the structure incurred by the Township; and

E. No account may be established or funds placed with any institution having a mortgage or judgment lien against the real estate.

SECTION VIII - NOTIFICATION TO THE INSURED.

Upon receipt of any funds by the Township Secretary pursuant to this Article or subsection 40 P.S. § 638(c)&(d) of the Statute, the Secretary shall notify the insured in writing at the last known address of the insured, as supplied by their insurer making said transfer, of the following:

A. The proceeds have been received by the municipality;

B. That the procedures under Pennsylvania statute 40 P.S. § 638(d) will be followed by the municipality in handling the proceeds; and

C. Any remaining funds will be returned to the named insured/s when the Township secretary receives proof acceptable to the Township that all repairs, removal or securing of the building or other structure have been completed and all costs incurred by the township and all delinquent taxes, assessments, penalties or user charges against the property have been paid in full.

SECTION IX - PAYMENT OF LOSSES.

If the Township has incurred any costs for repairs, removal **or** securing of the structure, as defined in this Article or the Act, **all** such costs for repairs, removal or securing of the structure and all delinquent taxes, assessments, penalties or user charges against the property shall be paid from the fund, and if excess funds remain, the Secretary shall return the remaining funds to the insured.

SECTION X - INADEQUACY OF FUND; REMEDIES.

A. In the event that the amount of the fund held by the Secretary, including interest thereon, is insufficient to pay all the costs for repairs, removal **or** securing of the structure incurred by the Township and all delinquent taxes, assessments, penalties or user charges against the property, as deemed in this Article or the Statute, the Township shall, and is hereby authorized to, with or without further

The contents of the Application for a certificate submitted to the Secretary by the insured for a certificate or a certificate and bill to be issued pursuant to this Article, shall contain all information requested by the Secretary, which shall include, but not be limited to, the following:

- A. Full legal name of every insurer.
- B. Complete mailing address for every insurer.
- C. Every claim number assigned by each and every insurer.
- D. Date of fire loss.
- E. Agreed proof of claim date. (Date agreed upon by the insurer and the insured as the date of the receipt of a proof of loss of the claim).
- F. Proper name of every insured as contained in every policy applicable.
- G. Complete mailing address for every named insured.
- H. Every known telephone number of each named insured.
- I. Tax parcel number of the property.

SECTION XIV - INSPECTIONS & NOTICE TO CORRECT.

Whenever any report of an inspection performed by the Township Engineer and/or the Township Code Enforcement Officer pursuant to this Article or any other inspection, or other reliable source of information finds or discloses that the structure involved in the loss requires removal, repair or securing, the Township shall notify every insured of all of the following:

- A. The fact of that an inspection occurred.
- B. The date said inspection occurred.
- C. The contents of the Report of Inspection, including any recommendations concerning corrective action required to be done.

D. The date by which the insured must commence corrective action to remove, repair or secure the structure.

E. The date by which the insured must complete corrective action to remove, repair or secure the structure.

F. Notice that the Township shall undertake and perform all corrective action in the event the insured shall fail to commence corrective action by the corrective action commencement date.

G. Notice that the Township shall complete all corrective action in the event the insured shall fail to complete corrective action by the corrective action commencement date.

H. Notice that the Township shall collect all costs as provided in this Article.

SECTION XV - FAILURE TO COMPLY.

In the event that the insured fails to commence the corrective action required by the Report of Inspection of the Township Engineer **and/or** the Township Code Enforcement Office **and/or** any other person by the corrective action commencement date contained in the Notice to be given pursuant to this Article, the Township may, without further notice to the insured, and without the necessity of securing bids therefore, commence corrective action for the removal, repairing or securing of the structure by entering into contracts and/or using Township employees and equipment.

SECTION XVI - SERVICE OF NOTICE.

A. Every Notice issued pursuant to this ordinance or Pennsylvania statute 40 P.S. § 638 shall be served upon every insured by depositing same in the United States Mail, certified mail, return receipt requested, addressed to the address of the insured as follows:

(1) The address supplied in writing by the insured to the Secretary; or

(2) The address supplied to the Secretary in the application for a certificate or a certificate and bill.

B. Every Notice shall be conclusively deemed to be received by every insured and every person claiming an ownership interest in the property upon deposit of the Notice in the mail addressed to the insured only.

SECTION XVII - DUTIES OF FIRE CHIEF, REPORT.

When any building or structure within the Township is damaged by fire and in the opinion of the Fire Chief the amount of damage amounts to at least seven thousand five hundred dollars (\$7,500.00), the Fire Chief shall deliver a Report of Damage to the Secretary, which report will include the name and mailing address of the owners thereof, and the name and address of any insurer provided to the Fire Chief by the owners thereof.

SECTION XVIII - FEES.

The Township is hereby authorized to adopt resolutions from time to time to fix reasonable fees to be charged for certificates, bills, performance of inspections and opening separate fund accounts.

SECTION XIX - CONSTRUCTION AND APPLICABILITY.

This Article 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 blight and deterioration.

SECTION XX - VIOLATIONS AND PENALTIES.

Any person, firm or corporation who shall violate any of the provisions of this Article shall, upon conviction before a District Justice, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) and the costs of prosecution including, but not limited to, reasonable attorney's fees. Each day's violation of any provision of this ordinance shall constitute a separate offense and each separate offense is subject to the foregoing fines.

SECTION XXI - REPEALER.

This ordinance shall take effect immediately upon adoption. This ordinance revokes, rescinds, replaces and supercedes all similar prior ordinances of Wysox Township, County of Bradford, Commonwealth of Pennsylvania. This Ordinance will be filed with the Pennsylvania Department of Community Affairs along with the name, position and phone

notice, commence any and all legal action at law and/or equity against every insured, every person claiming an ownership interest in and to the property or the structure, and/or the property, for the balance of all costs for repairs, removal or securing of the structure incurred by the Township, as defined in this Article or the Act.

B. In the event that the Township does commence a legal action at law and/or equity against an insured, a person claiming an ownership interest in and to the property or the structure, and/or the property, the Township is authorized to collect in addition to the balance of all costs for repairs, removal or securing of the structure incurred by the Township, as defined in this Article or the Act, all attorney's fees actually incurred by the Township in the prosecution of said action(s) and all expenses and costs thereof.

SECTION XI - ESTIMATING COSTS; RETURN OF EXCESS.

In the event the insured shall submit to the Secretary a written estimate from and signed by a contractor estimating the costs of removing, repairing, or securing the structure after the escrow fund has been established, the Secretary shall return to the insured the amount of the fund in excess of the written estimate so submitted by the insured upon the following conditions:

A. The Township has not commenced to remove, repair or secure the structure; and

B. Satisfactory proof has been submitted to the Secretary, by inspection or otherwise, that the contractor who submitted the written estimate has commenced removing, repairing or securing the structure.

SECTION XII - OTHER AGREEMENTS.

Notwithstanding any provision of this Article or the Statute, the Township, every insured, and every person claiming an ownership interest in the property therein may enter into a written agreement that permits the transfer of the fund held by the Secretary to the named insured upon satisfactory terms and conditions relating to the removing, repairing, or securing the structure or other disposition of the property and/or the payment for the costs of removing, repairing, or securing the structure.


SECTION XIII - CONTENTS OF APPLICATION.

number of the municipal officer responsible for enforcement of the ordinance as required by 40 P.S. § 638(i)

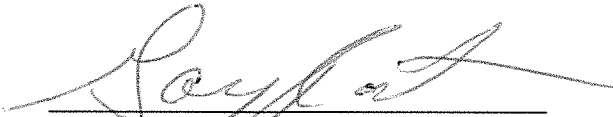
ENACTED AND ORDAINED as an ordinance of Wysox Township, Pennsylvania, this 11th day of July, 2000.

TOWNSHIP OF WYSOX SUPERVISORS

DATE: 8-4-9


William C. Shoemaker, Chair
SUPERVISOR

DATE: 8-9-9


Gary Foster, SUPERVISOR

DATE: 8-4-09


James Root, SUPERVISOR

ATTEST: 
James Ward, Secretary