

ORDINANCE NO. 97

AN ORDINANCE OF JACKSON TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA, PURSUANT TO ACT 93 OF 1994 AMENDING ACT 98 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS OR A PORTION THEREOF TO THE MUNICIPAL TREASURER OF JACKSON TOWNSHIP AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATIONS AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF ACT 98 OF 1992 AND ITS AMENDMENTS IN JACKSON TOWNSHIP.

WHEREAS, the Commonwealth of Pennsylvania enacted Act 98 of 1992 effective on September 7, 1992, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

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

WHEREAS, 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; and

WHEREAS, JACKSON TOWNSHIP 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 Municipality;

It is THEREFORE ORDAINED and ENACTED by the JACKSON TOWNSHIP SUPERVISORS as follows:

I. Definitions

"Delinquent" - shall mean at the time and on the date when a lien could otherwise have been filed against the property by the Municipality under applicable law.

"Insuring Agent" - shall mean any insurance company, association, or exchange doing business in the Commonwealth of Pennsylvania.

"Municipality" - shall mean the Township of Jackson

II. Designation of Official

- A. The Township Treasurer or their designee is hereby appointed as the person or persons authorized to carry out all responsibilities and duties stated herein.

### III. Procedures

- A. No Insuring Agent shall pay a claim of a named insured for fire damage to a structure located within the Municipality where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500.00), unless:
1. the Municipality provides to the Insuring Agent, within fourteen (14) working days, either a Certificate or Bill issued by its Treasurer only after:
    - a. the Treasurer receives a written request from the named insured specifying the:
      - (1) tax description of the property;
      - (2) name of the Insuring Agent;
      - (3) address of the Insuring Agent; and
      - (4) date agreed upon by the Insuring Agent and named insured as the date of the receipt of a loss report of the claim; and
  2. There is compliance with Subsection C titled "Payment of Loss."
- B. Certificate and Bill
1. The Certificate issued by the Treasurer to the Insuring Agent shall indicate either of the following:
    - a. (1) as of the date specified in the name insured's written request there are no delinquent:
      - (a) taxes,
      - (b) assessments,
      - (c) penalties, or
      - (d) user charges against the property; and
    - (2) that as of the date of the Treasurer's certificate

- (a) no municipality has certified any amount as total cost incurred by the municipality for the:
    - i) removal,
    - ii) repair, or
    - iii) securing of a building or
    - iv) other structure on the property or
  - b. (1) that as of the date specified in the name insured's written request there are delinquent:
    - (a) taxes,
    - (b) assessments,
    - (c) penalties, or
    - (d) user charges against the property;that have not been paid as of the date of the Treasurer's certificate and
  - (2) that as of the date of the Treasurer's certificate:
    - (a) the total amount of the total costs, if any, certified to the treasurer that have been incurred by the municipality for the:
      - i) removal,
      - ii) repair,
      - iii) securing of a building or
      - iv) any of other structure on the property.
2. In the event that a Certificate is issued under B1b above, the Treasurer must also issue a bill with the certificate that shows the items listed in B1b(1) and (2).

3. Upon receipt of the certificate and bill by the Insuring Agent from the named insured, the Insuring Agent shall:
  - a. return the bill to the Treasurer and
  - b. transfer an amount from the insurance proceeds necessary to pay the:
    - (a) delinquent taxes,
    - (b) assessments,
    - (c) penalties,
    - (d) user charges against the property, or
    - (e) the total amount of the total costs shown on the bill.
4. The Treasurer shall apply or credit the insurance proceeds that it receives from the Insuring Agent to the named insured's bill as a payment for the items shown on the bill.

C. Payment of Loss

1. The insuring agent shall pay the claim of the named insured in accordance with the policy terms if it receives a Certificate as provided in B1a(1) and (2) above unless:
  - a. the loss agreed to between the named insured and the insuring agent equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure.
    - (1) Where the loss is equal or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure the insuring agent, named insured, and municipality shall:
      - (a) transfer from the insurance proceeds to the Treasurer an amount:

- i) in the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, or
- ii) equal to the amount specified in a contractor's signed estimate of removing, repairing, or securing the building or other structure made at the time of the loss report.

(2) All proceeds transferred shall be made on a pro rata basis by all companies insuring the building or other structures.

2. Transferred proceeds

a. The insuring agent shall have the obligation at the time of transfer to provide the Treasurer with the:

- (1) name and
- (2) address of the named insured.

b. Upon receipt of proceeds under this section, the Treasurer shall:

(1) place the proceeds in the 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 Municipality.

(a) Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

c. Notification to Named Insured by Treasurer

(1) Upon receipt of the proceeds and the name and address of the named insured, the treasurer shall:

(a) contact the named insured,

- (b) certify that the proceeds have been received by the Municipality, and
- (c) notify the named insured that the following procedures shall be followed:
  - i) The transferred proceeds shall be returned to the named insured when the repairs, removal or securing of the building or other structure:
    - a) have been completed in accordance with all applicable regulations and orders of the Municipality and
    - b) the required proof of such completion is received by the Treasurer, and
    - c) if the Municipality has not incurred any costs for repairs, removals or securing the building or other structure.
  - ii) Costs incurred by the Municipality for repairs, removal or securing of the building or other structure, shall be paid from the transferred proceeds.
    - a) If excess transferred proceeds remain after the payment of costs incurred by the Municipality for repairs, removal or securing of the building or other structure, the Municipality shall return the remaining proceeds to the named insured.

- d. (1) After the transfer of proceeds, the named insured may submit to the treasurer, a contractor's signed estimate indicating the cost of removing, repairing or securing the building or other structure.
- (2) Upon receipt by the treasurer of the contractor's signed estimate indicating the cost of removing, repairing or securing the building or other structure, the treasurer shall return to the named insured the amount of proceeds transferred that are in excess of the contractor's signed estimate: provided:
  - (a) that the Municipality has not commenced to remove, repair or secure the building or other structure.
- e. Interest on transferred proceeds
  - (1) To the extent that interest is earned on proceeds held by the Municipality and not returned to the named insured, such interest shall belong to the Municipality.
  - (2) 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 that the proceeds are returned.
- 3. Nothing in this section shall be construed to:
  - a. limit the ability of the Municipality to recover any deficiency or
  - b. prohibit the Municipality and the name insured from entering into an agreement that permits the transfer of proceeds to the named insured if some other reasonable disposition of the damaged property has been negotiated.
- 4. Policy proceeds remaining after the transfer to the Municipality shall be disbursed in accordance with the policy terms.

IV. Fees and Charges

- A. The Jackson Township Supervisors 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 funds accounts.

V. Penalties

- A. Any owner of property, named insured, or Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000 per violation.

VI. Savings Provision

- A. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

VII. Repeals

- A. All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as same affects this Ordinance.

VIII. Effective

- A. This Ordinance shall become effective immediately.

ORDAINED AND ENACTED at a duly assembled public meeting by the Jackson Township Supervisors, this 27 day of July, 1995.

Attest:

George E. Bunker  
Secretary

Frank B. [Signature]  
Supervisor

Donald B. [Signature]  
Supervisor

David J. [Signature]  
Supervisor