

WASHINGTON TOWNSHIP ORDINANCE NO. 2005-0ne

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON ADOPTED PURSUANT TO SECTION 508 OF THE INSURANCE COMPANY LAW AS AMENDED BY ACT 93 OF 1994 REQUIRING ALL INSURANCE COMPANIES TO OBTAIN A MUNICIPAL CERTIFICATE THAT ALL MUNICIPAL TAXES AND OTHER CHARGES HAVE BEEN PAID FOR PROPERTIES WHERE FIRE LOSSES EXCEED \$7,500 AND TO ESCROW OF FUNDS WHERE LOSS EXCEEDS 60% OF THE LIABILITY LIMITS UNTIL THE DAMAGED PROPERTY HAS BEEN REPAIRED OR REMOVED.

WHEREAS, Section 508 of the Insurance Company Law of 1921, as amended by Act 93-1994, authorizes the adoption of this type of an Ordinance requiring insurance companies to comply with the hereinafter described requirements; and

WHEREAS, the Township desires to adopt this Ordinance.

NOW THEREFORE, the Township of Washington (the "Township") hereby adopts this Ordinance and ordains as follows:

(a) No insurance company, association or exchange doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Township 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 insurance company, association or exchange is furnished with a certificate pursuant to subsection (b) of this Ordinance and unless there is compliance with the procedures set forth in subsections (c) and (d) of this Ordinance.

(b)(1) The Township Treasurer, his or her designee, shall, upon the 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 either of the following, within fourteen (14) working days of the request:

(i) 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 specified in the request, there are no delinquent taxes, assessment, penalties or user charges against the property and that, as of the date of the treasurer's certificate or verbal notification the Township has certified any amount as total costs incurred by the Township for the removal, repair or securing of a building or other structure on the property; or

(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 the total costs, if any, certified to the treasurer that have been incurred by the Township for the removal, repair or securing of a building or other structure on the property. For the purposes of this sub-clause, the Township 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 Township under applicable law (including any claim taxes for the current year).

(2)(i) Upon the receipt of a certificate pursuant to clause (1)(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 insurance and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such loss, the insurance company, association or exchange, the insured property owner and the Township shall follow the procedures set forth in subsections (c) and (d) of this section.

(ii) Upon the receipt of a certificate and bill pursuant to clause (1)(ii) of this subsection, 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 as shown on the bill. The Township shall receive the amount and apply or credit it to payment of the items showing in the bill.

(c) When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the Treasurer of the Township in the aggregate 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 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 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 building or other 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 contractor's signed estimate of the costs of removing, repairing or securing the building or other 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 Township has not commenced to remove, repair or secure the building or other structure.

(d) Upon receipt of proceeds by the Township as authorized by this section, the Treasurer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Township. When transferring the funds as required in subsection (c) of this section, an insurance company, association or exchange shall provide the Township with the name and address of the named insured, whereupon the Township shall contact the named insured, certify that the proceeds have been received by the Township and notify the named insured that the procedures under this subsection shall be followed. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the Treasurer, or his or her designee, if the

Township has not incurred costs for repairs, removal or securing. The Named Insured shall have a period of ninety (90) days, commencing with the date the fire loss occurred, to level the damage structure or to adequately secure and repair the structure, rendering it in a safe condition ("the Remedial Action"). The additional ninety (90) day period may be allowed for Remedial Action provided that the Township, in its sole discretion, determines that the Named Insured shows good cause for requesting the additional ninety (90) days. If either ninety (90) days period lapses and the Named Insured has not completed the Remedial Action, then the Township may take action to adequately remediate the structure and charge all costs against the funds set aside pursuant to this ordinance.

(e) The Named Insured shall have the right to apply to the Township for one (1) additional period of ninety (90) days in order to accomplish the Remedial Action. Such an application shall be filed with the Township prior to the expiration of the ninetieth day following the date of the fire loss. In the event ninety (90) days have lapsed, no extension shall be granted.

(f) If the Township has incurred costs for repairs, removal or securing the building or other structure, the costs shall be paid from the fund, and, if excess funds remain, the Township shall transfer the remaining funds to the named insured. Nothing in this section shall be construed to limit the ability of a Township to recover any deficiency. Further, nothing in this subsection shall be construed to prohibit the Township 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.

(g) Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with subsection (c) 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 (c) of this section.

(h) 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 Township 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.

(i) 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 township shall have a full benefit of such payment, including all rights of subrogation and of assignment.

(j) Subsections (a) and (b) of this section shall apply only to fire losses that occur after the effective date of the Ordinance.

(k) An exact copy of the Ordinance shall be filed with the Department of Community Affairs together with the name, position and phone number of the municipal official responsible for compliance with this ordinance. The Township shall supply the information required by this subsection to the Department of Community Affairs as part of the implementation of this Ordinance.

(l) This Ordinance 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.

(m) The Tax Collector for the Township shall provide to the Treasurer for the Treasurer's need the information concerning all delinquent taxes and assessments against the property within 72 hours of the verbal or written request by the Treasurer or its designee.

(n) The Treasurer may designate the Township Secretary or another person to perform the requirements under this Ordinance on behalf of the Township Treasurer, including but not limited to the providing of the Treasurer's Certificate or any verbal notification provided for herein.

IT IS FURTHER ORDAINED, that all ordinances or parts of ordinances, inconsistent with this ordinance, to the extent of such inconsistency, are hereby repealed. Duly adopted at the meeting of the Board of Supervisors of Washington Township at its meeting held the 12th day of September, 2005.

WASHINGTON TOWNSHIP

[Signature]
Chairman, Board of Supervisors

Lee I. Miller

Patricia R. Stump

