

ORDINANCE NUMBER 2021-14

OAKLAND TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE REQUIRING THE ESCROW OF FIRE INSURANCE PROCEEDS FROM CERTAIN FIRE DAMAGED PROPERTIES AS SECURITY AGAINST THE TOWNSHIP'S COSTS OF REMOVING, REPAIRING OR SECURING THE DAMAGED PROPERTY; AUTHORIZING CERTAIN PROCEDURES FOR THE HANDLING AND DISTRIBUTION OF THE INSURANCE PROCEEDS; AND PROVIDING FOR FEES AND PENALTIES FOR VIOLATIONS.

NOW THEREFORE, be it enacted and ordained that Chapter 6, Fire Protection and Prevention, of the Oakland Township Code of Ordinances is hereby revised by adding Article 1, Security for Fire Loss Claims, as follows:

CHAPTER 6 FIRE PROTECTION AND PREVENTION

ARTICLE 1 SECURITY FOR FIRE LOSS CLAIMS

§ 6-101. STATUTORY AUTHORITY; PURPOSE.

Oakland Township ("Township"), through provisions of this Article, hereby incorporates the provisions of Section 638 of the Insurance Company Law, 40 P.S. § 638, as amended, which provides the Township with the authority to require security in the form of insurance proceeds from an insurance company, association or exchange doing business in Pennsylvania, for the removal, repair and securing of fire-damaged buildings and other structures subject to fire loss claims.

§ 6-102. CERTIFICATE REQUIRED PRIOR TO PAYMENT OF FIRE LOSS CLAIMS.

No insurance company, association or exchange (hereinafter collectively referred to as "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 the Township where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred Dollars (\$7,500), unless the Insuring Agent is furnished by the Township treasurer with a Township certificate pursuant to Section 638 of the Insurance Company Law, as amended, and unless there is compliance with the provisions of this Article.

§ 6-103. PROCEDURE FOR PAYMENT OF MUNICIPAL CLAIMS.

(A) The Township treasurer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the Insuring Agent and the date agreed upon by the Insuring Agent and the named insured as the date of the receipt of a loss report of the

claim, furnish the Insuring Agent a certificate within fourteen (14) working days of the request either:

- (1) Stating that as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property; or
- (2) Specifying the nature and amount of such 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, accompanied by a bill for such amounts.

(B) *Where the Township issues a certificate indicating that there are no delinquent taxes, assessment, penalties or user charges against the property*, the Insuring Agent 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 Insuring Agent equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the Insuring Agent, the insured property owner and the Township shall follow the procedures set forth in **Subsections (D) and (E) of this Section**.

(C) *Where the Township issues a certificate indicating that there are delinquent taxes, assessment, penalties or user charges against the property*, the Insuring Agent shall transfer to the Township an amount from the insurance proceeds necessary to pay the taxes assessments, penalties, charges and costs as shown on the bill prior to making payment to the named insured. The municipality shall receive the amount and apply or credit it to payment of the items shown in the bill.

(D) Where the Township issues a certificate indicating that there are no delinquent taxes, assessment, penalties or user charges against the property, the Insuring Agent shall pay the claim of the named insured, provided however that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds sixty per cent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the following procedure must be followed:

- (1) The Insuring Agent shall transfer from the insurance proceeds to the treasurer in the aggregate Two Thousand Dollars (\$2,000) for each Fifteen Thousand Dollars (\$15,000) and for each fraction of that amount of a claim, such that if the claim is for Fifteen Thousand Dollars (\$15,000) or less, the amount transferred to the Township shall be Two Thousand Dollars (\$2,000); or
- (2) 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, the Insuring Agent shall transfer to the Township from the insurance proceeds the amount specified in the estimate.
- (3) The transfer of proceeds shall be on a pro rata basis by all Insuring Agents insuring the building or other structure.
- (4) Policy proceeds remaining after the transfer to the Township shall be disbursed in accordance with the policy terms.

(5) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the treasurer 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.

(E) Upon receipt of proceeds under this Section, the Township shall conform to the following procedure:

(1) 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 the building or other structure which are incurred by the Township. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(2) It is the obligation of the Insuring Agent when transferring the funds to provide the Township with the name and address of the named insured. Upon receipt of the transferred funds, and the name and address of the named insured, the treasurer 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; and

(3) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Township and the required proof of such completion is received by the treasurer, and if the Township has not incurred any costs for repairs, removal or securing, the funds shall be returned to the named insured. If the Township has incurred costs for repairs, removal or securing of 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, upon receipt by the treasurer of a certificate issued by the Township or its agents, that the repair, removal or securing of the building or other structure have been completed in accordance with all applicable Codes and Regulations of the Township.

(4) To the extent that interest is earned on proceeds held by the Township pursuant to this Section and not returned to the named insured, such interest shall belong to the Township. To the extent that proceeds are returned to the named insured, interest on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(F) Nothing in this Section shall be construed to limit the ability of a Township to recover any deficiency. Furthermore, nothing in this Section 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.

§ 6-104. INSURING AGENT RIGHTS RESERVED.

(A) An insuring Agent making payments of policy proceeds under this Article for delinquent taxes or structure removal liens or removal expenses incurred by the Township shall have full benefit of such payment, including all rights of subrogation and of assignment.

(B) Proof of payment by the Insuring Agent of proceeds under a policy in accordance with **Subsection 6-103(D)**, above, 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 Insuring Agent with **Subsection 6-103(D)**, above.

(C) Nothing in this Section shall be construed to make an Insuring Agent liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Article or to make the Township or any 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 Article.

§ 6-105. MUNICIPAL FEES.

The Board of Supervisors may, by resolution, adopt procedures and regulations to implement the provisions of Section 638 of the Insurance Company Law, 40 P.S. § 638, as amended, and this Article and may, by resolution, fix reasonable fees to be charged for Township activities or services provided pursuant to this Article including, but not limited to, the issuance of certificates and bills, performance of inspections and the opening of separate fund accounts.

§ 6-106. VIOLATIONS AND PENALTIES.

Any person, firm or corporation who shall violate any provision of this Article shall, upon summary conviction thereof, be sentenced to pay a fine of up to One Thousand Dollars (\$1,000) per violation, PLUS, reasonable attorneys' fees and costs. Each day that a violation of this Article continues or each Section of this Article which shall be found to have been violated shall constitute a separate offense. The Township solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c) (relating to trial in summary cases).

§ 6-107. IMPLEMENTATION.

The Township secretary is hereby directed to file an exact copy of this Article with the Governor's Center for Local Government Services together with the name, position and phone number of the Township treasurer, the municipal official responsible for compliance with this Article. Insurance companies, associations or exchanges shall not be required to comply with the provisions of this Article if the Township fails to provide a copy of this Article to the Governor's Center for Local Government Services.

§ 6-108. SEVERABILITY.

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

§ 6-109. REPEALER.

All articles or parts of articles conflicting with any of the provisions of this Article are hereby repealed to the extent of the inconsistency.

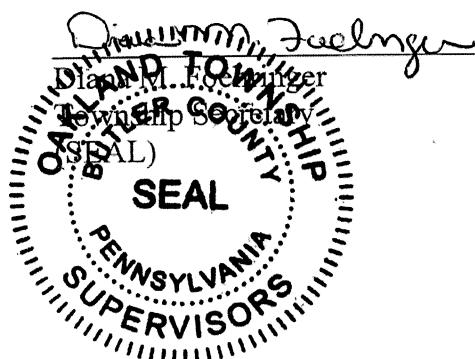
§ 6-110. EFFECTIVE DATE.

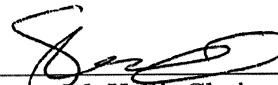
This Article shall become effective five (5) days after enactment and shall remain in force until modified, amended or rescinded by the Board of Supervisors.

ENACTED AND ORDAINED this 3rd day of February 2021, by the Board of Supervisors of Oakland Township, Butler County, Pennsylvania, in lawful session duly assembled.

ATTEST:

OAKLAND TOWNSHIP BOARD OF SUPERVISORS





Shaun M. Krill, Chairman



James G. Shipley, Vice Chairman



Brian G. Hans, Supervisor