

ORDINANCE NO. 2011 - 02

**AN ORDINANCE OF SPRING TOWNSHIP, SNYDER
COUNTY PENNSYLVANIA, ESTABLISHING A FIRE
INSURANCE ESCROW IN ACCORDANCE WITH THE
FIRE INSURANCE ESCROW ACT, ACT 93 OF 1994.**

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Board of Supervisors of Spring Township as follows:

Section 1: Authority.

This Ordinance is adopted in conformance with and pursuant to authority granted by § 1 of the Fire Insurance Escrow Act, Act 93 of 1994 (40 P.S. §638).

Section 2: Purpose.

The purpose of this Ordinance is to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

Section 3: Use of Fire Insurance Proceeds.

1. No insurance company, association or exchange (hereinafter "insurer") 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 of Spring where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Township Secretary with a certificate pursuant to section 508(b) of the Insurance Company Law of 1921, (40 P.S. §638) (the "Act") and unless there is compliance with the procedures set forth in sections 508(c) and (d) of the Act [40 P.S. §638(c) and (d)].

2. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Township of Spring has incurred as a cost for the removal, repair or securing of a building or other

structure on the property (collectively "municipal expenses"), the Secretary of the Township of Spring shall immediately render a bill for such work, if he has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Township Secretary shall furnish a certificate within 14 working days of the request, to the insurer, a certificate (or at his discretion an oral notice confirmed in writing) either:

A. Stating that there are no unpaid municipal claims or municipal expenses against the property.

B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

C. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to subsection (A) of this Section, the insurer shall transfer to the Township Secretary an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of subsection (3) hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this Section, or where the Township Secretary has issued a certificate described in subsection (2)(A) indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

A. The insurer shall transfer from the insurance proceeds to the Township Secretary, in the aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.

B. If at the time a loss is submitted by the insured, such insured has submitted to the insurer, with a copy to Spring Township, a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insured shall transfer to the Township Secretary from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds, the Township Secretary shall do the following:

(1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by Spring Township to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by Spring Township in connection with such removal, repair or securing or any proceedings related thereto; and,

(2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by Spring Township and that the procedures under this subsection shall be followed.

(3) After the transfer, the named insured may submit to Spring Township a signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Secretary shall, if such estimate is deemed by the Township Secretary to be reasonable, return to the insured the amount of the funds transferred to Spring Township in excess of that required to pay the municipal expenses; provided, Spring Township, has not commenced to remove, repair, or secure the building or other structure, in which case Spring Township will complete the work.

(4) Pay to the Township Secretary, for reimbursement to the Township general fund, the amount of the municipal expenses paid by Spring Township.

(5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Township Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of Spring Township.

(6) Nothing in this Section shall be construed to limit the ability of Spring Township to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Part, or to insurance proceeds, by an action at law or in equity to enforce the codes of Spring Township or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as Spring Township may deem responsible.

Section 4: Limits of liability.

Nothing in this Part 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 Part or to make this Township, any Township official, 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 Part.

Section 5: Insurance Company Rights Reserved.

An insurance company, association or exchange making payment of policy proceeds under this Ordinance for delinquent taxes or structure removal liens or removal expenses incurred by Spring Township shall have a full benefit of such payment including all rights of subrogation and of assignment.

Section 6: Construction.

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 urban blight and deterioration.

Section 7: Notification of Pennsylvania Department of Community and Economic Development.

The Secretary of Spring Township shall transmit a certified copy of this Ordinance promptly to the Pennsylvania Department of Community and Economic Development.

Section 8 Penalty.

Any owner of property, any named insured or insurer who violates the provisions of this Ordinance or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof, to a fine of not more than \$ 1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 day. Each day on which an offense shall continue shall be deemed a separate offense.

Section 9: **Effective Date.** This ordinance shall become effective five (5) days after adoption, as provided by law.

DULY ENACTED AND ORDAINED this 24 day of May, 2011, by the Board of Supervisors of Spring Township, Snyder County, Pennsylvania, in lawful session duly assembled after proper notice having been given.

**SPRING TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:

Warren R. Dutrow
Warren Dutrow, Secretary

(Township Seal)

Douglas M. Garrison
Douglas M. Garrison, Chairman

Dale A. Bishop
Dale A. Bishop, Supervisor

John F. Kauffman, II
John F. Kauffman, II, Supervisor

CERTIFICATION

I, Warren Dutrow, Secretary of the Board of Supervisors of Spring Township, Snyder County, Pennsylvania, hereby attest and, certify that the foregoing is a true and correct copy of Spring Township Ordinance No. 2011 - 02 which was duly enacted at the regular meeting of the Board of Supervisors on May 24, 2011, after due notice and with quorum present.

Warren R Dutrow
Warren Dutrow, Township Secretary

(Township Seal)