

CHAPTER 15

INSURANCE CLAIMS

BOROUGH OF WYALUSING
ORDINANCE NO. 15

AN ORDINANCE CHAPTER NO. 15, INSURANCE, OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate Insurance as authorized under the Borough Code found at 40 P.S. § 341 et. Seq., Laws amended, revised, and consolidated: The laws providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund, are hereby amended, revised, and consolidated

The Borough of Wyalusing hereby ordains and enacts as follows:

ARTICLE I
FIRE INSURANCE

§ 1. 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:

BOROUGH -- The Borough of Wyalusing, Bradford County, Pennsylvania.

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

- A. The actual labor costs of every borough employee involved in the repairing, removing or securing.
- B. Inspection fees.
- C. Engineering fees.

- D. Architectural fees.
- E. Attorneys' fees.
- F. Administrative fee of 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 Borough of Wyalusing.

LOSS -- Fire damage sustained by any structure or building situate within the Borough of Wyalusing.

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

PROPERTY -- Every piece, parcel or tract of real estate located in the Borough of Wyalusing.

SECRETARY -- The duly appointed Secretary of the Borough of Wyalusing.

STRUCTURE -- Every building or other structure located upon property located in the Borough of Wyalusing.

TAX COLLECTOR -- The elected Real Estate Tax Collector for the Borough of Wyalusing.

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.

THE ACT -- The Insurance Company Law of 1921, as amended.

§ 2. REQUIREMENTS FOR PAYMENT OF CLAIM.

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 borough where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500 unless and until the insurer complies with each of the following requirements:

A. The insurer receives a certificate pursuant to the provisions of Section 508(b) of the Act and this article.

B. The insurer transfers from the insurance proceeds the amount required under Section 508(c)4 of the Act and the provisions of this article; and

C. The insurer provides the Secretary with the information regarding the insured required under Section 608(d)5 of the Act and the provisions of this article.

§3. OBLIGATION OF INSURED.

A. When a structure on property located within the borough 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 \$7,000, the named insured shall submit a written request to the Tax Collector, signed by every named insured, which written request shall contain all the information as hereinafter provided, and the Tax Collector shall issue to the insurer within 14 working days of the request:

(1) A certificate or, at the discretion of the borough, 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 borough has not certified

any amount as total costs incurred by the borough 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 borough 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 borough under applicable law.

§ 4. ADDITIONAL REQUIREMENTS FOR PAYMENT OF CLAIM.

Upon the receipt of a certificate issued by the Tax Collector to an insured pursuant to § 3A(1) of this article and/or Section 508(b)1(i) of the Act, 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 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 this article and in Section 508(c) and (d) of the Act.

§ 5. TAXES.

A. Upon the receipt of a certificate and bill pursuant to § 99-3A(2) of this article and/or Section 508(b)1(ii) of the Act, 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 borough shall receive the amount and apply or credit it to payment of the items shown in the bill.

§ 6. COSTS.

A. When the loss agreed to between the insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire insurance policies covering the structure, the insurer shall transfer to the Secretary from the insurance proceeds:

(1) In the aggregate \$2,000 for each \$15,000 and each fraction of that amount of a claim; 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 in an amount less than the amount calculated under Subsection A (1), the insurer shall transfer from the insurance proceeds the amount specified in the estimate.

B. The transfer of proceeds shall be on a pro rata 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.

§7. RECEIPT OF PROCEEDS BY THE SECRETARY.

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 that the amount received for any one loss is in excess of the amount that may be federal insured by any one 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 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 borough; and

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

§8. NOTIFICATION TO THE INSURED.

Upon transfer of any funds to the Secretary pursuant to this article or Section 508(c) of the Act, 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. All repairs, removal and/or securing of the structure have been completed; and

B. The borough has not incurred any costs for repairs, removal or securing of the structure.

§ 9. PAYMENT OF LOSSES.

If the borough 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 shall be paid from the fund, and if excess funds remain, the Secretary shall return the remaining funds to the insured.

§ 10. 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 borough, as deemed in this article or the Act, the borough shall, and is hereby authorized to, with or without further 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 borough, as defined in this article or the Act.

B. In the event that the borough 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 borough is authorized to collect in addition to the balance of all costs for repairs, removal or securing of the structure incurred by the borough, as defined in this article or the Act, all attorney's fees actually incurred by the borough in the prosecution of said action(s) and all expenses and costs thereof.

§ 11. ESTIMATING COSTS; RETURN OF EXCESS.

In the event that 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 borough 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.

§12. OTHER AGREEMENTS.

Notwithstanding any provision of this article or the Act, the borough, every insured and every person claiming an ownership interest in the property herein 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.

§ 13. CONTENTS OF APPLICATION.

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.

§14. NOTICE TO CORRECT.

Whenever any Report of an Inspection performed by the Borough Engineer and/or the Borough Ordinance Enforcement Officer pursuant to this article or any other inspection finds or discloses that the structure involved in the loss requires removal, repair or securing, the borough shall notify every insured of all of the following.

- A. The fact 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 borough shall undertake and perform all corrective action in the event that the insured shall fail to commence corrective action by the corrective action commencement date.
- G. Notice that the borough shall complete all corrective action in the event that the insured shall fail to complete corrective action by the corrective action commencement date; and
- G. Notice that the borough shall collect all costs as provided in this article.

§ 15. FAILURE TO COMPLY.

In the event that the insured fails to commence the corrective action required by the Report of Inspection of the Borough Engineer and/or the Borough Ordinance Enforcement Officer and/or any other person by the corrective action commencement date contained in the notice to be given pursuant to this article, the borough may, without further notice to the insured, and without the necessity of securing bids therefor, commence corrective action for the removal, repairing or securing of the structure by entering into contracts and/or using borough employees and equipment.

§ 16. SERVICE OF NOTICE.

A. Every notice pursuant to § 15 of this article shall be served upon every insured by depositing the 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.

§ 17. DUTIES OF FIRE CHIEF; REPORT.

When any building or structure within the borough is damaged by fire and, in the opinion of the Fire Chief, the amount of damage amounts to at least \$7,500, 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.

§ 18. FEES.

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

§ 19. CONSTRUAL AND APPLICABILITY.

This article shall be liberally construed to accomplish its purpose to deter to the Commission of Arson and Related Crimes, to discourage the abandonment of property and to prevent blight and deterioration.

§ 20. 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 \$1,000 and the costs of prosecution, and may be imprisoned in the Bradford County Jail for not more than 30 days, provided that each day's violation of any of the provisions of this article shall constitute a separate offense.

THIS ORDINANCE shall take effect immediately upon adoption.