

BILL NO.: 95-30

ORDINANCE NO. 96-2

FIRE LOSS CLAIM ORDINANCE

AN ORDINANCE OF THE CITY OF JEANNETTE, WESTMORELAND COUNTY, PENNSYLVANIA, PURSUANT TO SECTION 508 OF THE INSURANCE COMPANY LAW OF 1921 (40 P.S. SECTIONS 638), ADDED JULY 9, 1992 (P.L. 678, NO. 98), AS AMENDED OCTOBER 13, 1994 (P.L. 609, NO. 93), PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED BUILDING; AND FURTHER PROVIDING THAT IN CERTAIN FIRE LOSSES, THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY TO PAY DELINQUENT TAXES, ASSESSMENTS, PENALTIES, AND USER CHARGES AGAINST THE PROPERTY; PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND THE IMPLEMENTATION OF SECTION 508, AS ADDED BY P.L. 678, NO. 98 AND AS AMENDED BY P.L. 609, NO. 93, IN THE CITY OF JEANNETTE.

WHEREAS, the General Assembly in 1992 added §508 of the Insurance Company Law of 1921, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, the General Assembly amended §508 in 1994; 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

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WHEREAS, the City of Jeannette desires to adopt an Ordinance pursuant to §508 of the Insurance Company Law of 1921, as amended, to provide for the payment of proceeds from certain fire loss claims to the City;

NOW THEREFORE, IT IS ORDAINED AND ENACTED by the Council of the City of Jeannette as follows:

SECTION I. - DEFINITIONS:

1. The term "The City", as used in this Ordinance, shall mean the City of Jeannette.

2. The term "Municipality", as used in this Ordinance, shall mean any city, borough, town, township or home rule municipality.

3. The term "Treasurer", as used in this Ordinance, shall mean the Treasurer of the City of Jeannette.

4. The terms "fire loss" or "claim for fire damage", as used in this Ordinance, shall mean any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders of the policy.

SECTION II.:

The City Treasurer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.



SECTION III.:

No Insurance Company, Association or Exchange, (hereinafter "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 City of Jeannette (hereinafter the "City") where the amount recoverable for the fire loss to the structure under all policies exceeds SEVEN THOUSAND FIVE HUNDRED and 00/100 (\$7,500.00) DOLLARS, unless the named insured or Insuring Agent is furnished by the City Treasurer with a Municipal Certificate pursuant to §508 (b) of the Insurance Law of 1921, as amended in 1994 (40 P.S. §638(b)), and as set forth in Subsection III. (A) herein, and unless there is compliance with §508 (c) and (d) of the Insurance Company Law of 1921, as amended in 1994, (40 P.S. §638 (c) and (d)) and the provisions of this Ordinance.

- A. The City Treasurer 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:

1. A certificate or, at the discretion of the City, 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, assessments, penalties or user charges against the property and that, as of the date of the Treasurer's Certificate or verbal notification, no Municipality has certified any amount as total costs incurred by the Municipality for the removal, repair or securing of a building or other structure on the property; or
2. 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 a Municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this subclause, the Municipality 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 Municipality under applicable law.

SECTION IV.:

Where pursuant to §508 (b) (1) (I) of the Insurance Company Law of 1921, as amended in 1994, and as set forth in Subsection III. (A.) (1.) herein, the City Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss as agreed upon by the named insured and the Insuring Agent equals or exceeds sixty (60%) percent of



the aggregate limits of liability on all fire policies covering the building or other structure, the following procedures must be followed:

1. The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the City in the aggregate of TWO THOUSAND and 00/100 (\$2,000.00) DOLLARS for each FIFTEEN THOUSAND and 00/100 (\$15,000.00) DOLLARS of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is FIFTEEN THOUSAND and 00/100 (\$15,000.00) DOLLARS or less, the amount transferred to the City shall be TWO THOUSAND and 00/100 (\$2,000.00) DOLLARS; or
2. If at the time of a Proof of Loss agreed to between the named insured and Insuring Agent, such Proof of Loss herein being required to be provided to the City by the Insuring Agent, 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 Insuring Agent shall transfer to the City from the insurance proceeds the amount specified in the estimate.

3. 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 City shall be disbursed in accordance with the policy terms.
4. 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 designated officer shall return the amount of the funds transferred to the City in excess of the estimate to the named insured, if the City has not commenced to remove, repair or secure the building or other structure.
5. Upon receipt of proceeds under this section, the City shall do the following:
 - a. The designated officer shall place the proceeds in a 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 City. Such costs shall



include, without limitation, any engineering, legal or administrative costs incurred by the City in connection with such removal, repair or securing of the building or any proceeds related thereto; and

- b. It is the obligation of the Insuring Agent when transferring the proceeds pursuant to subsections (1.) through (3.) of this Section, to provide the City with the name and address of the named insured. Upon receipt of the transferred proceeds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the City and notify the named insured that the procedures under this subsection shall be followed;
- c. When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the City and the required proof of such completion is received by the designated officer, and if the City has not incurred



any costs for repairs, removal or securing of the building or structure, the funds shall be returned to the named insured. If the City 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 City shall transfer the remaining funds to the named insured; and

d. To the extent that interest is earned on proceeds held by the City pursuant to this Section, and said proceeds are not returned to the named insured, such interest shall belong to the City. 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.

6. Nothing in this Section shall be construed to limit the ability of the City to recover any deficiency, nor to limit the ability of the City to take any other step or engage in any other procedure authorized by law or in equity to remedy a situation resulting from fire loss within or outside the City.

Furthermore, nothing in this subsection shall be construed to prohibit the City 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.

SECTION V.:

Where pursuant to §508 (b) (1) (II.), of the Insurance Company Law of 1921, as amended in 1994, and pursuant to Section III. (A.) (2.) of this Ordinance, the City Treasurer issues a certificate and bill indicating an amount of delinquent taxes, assessments, penalties and/or user charges against the property as of the date the named insured or Insuring Agent requested the certificate, that have not been paid as of the date of the certificate, and also indicating, as of the date of the certificate, an amount of total costs, if any, certified to the Treasurer that have been incurred by a Municipality for the removal, repair or securing of a building or other structure on the property, the Insuring Agent 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 shown on the bill.

- A. The Municipality shall receive that amount and apply or credit it to payment of the items shown on the bill;

B. The transfer of proceeds to the Treasurer shall be on a pro-rata basis by all insurers with applicable policies of insurance providing protection for fire loss.

SECTION VI.:

The Council of the City of Jeannette may by Resolution adopt procedures and regulations to implement the Insurance Company Law of 1921, as amended in 1994, and this Ordinance, and may be Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to said Law and this Ordinance, including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

SECTION VII.:

Any owner of property, any named insured or any insuring agent who violates this Ordinance shall be guilty of a Summary Offense, and upon conviction thereof, shall pay a fine of ONE THOUSAND and 00/100 (\$1,000.00) DOLLARS together with the costs of prosecution, and in default of such fines and costs, shall be punishable by imprisonment for a period of not more than ninety (90) days, or both, in accordance with 53 P.S. §37403 (60). Each violation of this Ordinance shall constitute a separate and distinct offense, punishable as provided herein.



SECTION VIII.:

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

SECTION IX.:

All Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as the same effects this Ordinance.

SECTION X.:

This Ordinance shall become effective immediately.

SECTION XI.:

A certified copy of this Ordinance, together with the name, position, and phone number of the Municipal Officer responsible for compliance with this Section, shall be filed with the Department of Community Affairs on or before the effective date.

ORDAINED AND ENACTED at a duly assembled public meeting by the Council of the City of Jeannette, this 17th day of January, 1996.

ATTEST:

Mary A. Sever
Mary A. Sever, City Clerk

THE CITY OF JEANNETTE:

BY Glenn D. Hoak
Glenn D. Hoak, Mayor

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