

**BOROUGH OF TOPTON
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE NO. 06-2021

AN ORDINANCE OF THE BOROUGH OF TOPTON, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE 3-1993 AND REPLACING IT WITH THIS ORDINANCE; PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE BOROUGH AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF SAID LEGISLATION IN THE BOROUGH

WHEREAS, the Commonwealth of Pennsylvania enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims and has enacted amendments thereto; 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

WHEREAS, the Borough of Tipton desires to adopt an Ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Borough.

It is **THEREFORE ORDAINED** and **ENACTED** by the Borough of Tipton, Berks County Pennsylvania ("Borough") as follows:

SECTION 1. Designated Official. The Borough Manager, or the designee of the Borough Manager, is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

SECTION 2. Municipal Certificate to Pay Fire Damage Claims. No insurance company, association or exchange (hereinafter the "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 Borough of Tipton (hereinafter "Municipality") 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 Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508 (B) of Act 98

of 1992 as amended and unless there is compliance with Section 508 (C) of Act 98 of 1992 as amended and the provisions of this Ordinance.

SECTION 3. Security for Costs. Where pursuant to Section 508 (B)(1)(I) of Act 98 of 1992, as amended, the municipal treasurer issues a certificate indicating that there are not 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 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 structure, the following procedures must be followed:

1. The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$2,000.00 for each \$15,000.00 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$15,000.00 or less, the amount transferred to the Municipality shall be \$2,000.00; or

2. If at the time of a proof of loss agreed to between the named insured and 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, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

3. The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

4. After the transfer, the named insured shall submit a contractor's signed estimate within sixty days (60) 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 Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.

5. Upon receipt of proceeds under this section, the Municipality 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 Municipality. Such costs shall include, all reasonable and customary engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair, or securing of the building or any proceedings related thereto; and

b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the name insured, certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed; and

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 Municipality and the required proof of such completion received by the designated officer, and if the Municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Municipality 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 Municipality shall transfer the remaining funds to the named insured; and

d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. 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 Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality 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 4. Procedures and Regulations to be Adopted by Council. The Council of the Borough may by Resolution adopt procedures and regulations to implement Act 98 of 1992 as amended and this Ordinance may by Resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 as amended and this Ordinance, including but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.


SECTION 5. Penalty for Violation. Any owner of property, any named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

SECTION 6. Severability. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION 7. Repealer. All Ordinances or parts of Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as some affect this Ordinance. This Ordinance shall become effective immediately.

DULY ENACTED AND ORDAINED this 13th day of September, 2021.

**BOROUGH OF TOPTON
BERKS COUNTY, PENNSYLVANIA**

By: 
(Vice) President of Council

Attest: 
Secretary

Approved as an Ordinance this 13th day of September, 2021:

By: 
Thomas Biltcliff, Mayor