

WILMERDING BOROUGH
ORDINANCE NO. 999

AN ORDINANCE OF WILMERDING BOROUGH PURSUANT TO ACT 98 OF 1992 PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO THE BOROUGH TREASURER 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 ACT 98 OF 1992 IN THE BOROUGH OF WILMERDING; EFFECTIVE DATE.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992, 40 P. S. § 638, as amended, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; 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 Wilmerding 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; and

WHEREAS, this Ordinance is enacted pursuant to the provisions of the Statute cited above and the Borough Code; and

WHEREAS, this Ordinance is deemed to be in the best interests of the residents of the Borough of Wilmerding.

THEREFORE, IT IS HEREBY ORDAINED AND ENACTED BY THE BOROUGH OF WILMERDING AS FOLLOWS:

Section I

From time to time the Borough shall designate the official responsible for carrying out the duties as are described herein. Such person shall be the designated officer by the Borough to make certifications, file claims, etc., and carry out all functions as may be necessary to effectuate Borough claims pursuant to the legislation referred to hereinabove. At the present time the Borough hereby designates the Borough Secretary as the appropriate officer.

Section II

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 Wilmerding Borough (hereinafter the "Borough") where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five hundred Dollars (\$7,500.00), unless the named insured or Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508 (b) Act 98 of 1992 and unless there is compliance with Section 508 (c) and (d) of Act 98 of 1992 and the provisions of this Ordinance.

Where pursuant to Section 508 (b)(1)(i) of Act 98 of 1992, the municipal 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 is agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building, all structures thereon and contents, therein, and the total cost of removal of all debris or damaged contents of such structure, the following procedures must be followed:

- (1) The Insuring Agent shall transfer from the insurance proceeds to the Borough Treasurer in the aggregate of \$2,000.00 for each \$15,000.00 of a claim and for each fraction of the amount of a claim; 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 Borough 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.

(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 Borough Treasurer shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building, its contents or other structure on the property.

(5) Upon receipt of proceeds under this section, the Borough shall do the following:

(a) The Borough Treasurer 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, the contents or structure which are incurred by the Borough. Such costs shall also include, without limitation, any engineering, legal or administrative costs incurred by the Borough 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 Borough 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 designated officer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed; and

(c) When repairs, removal or securing of the building, the contents or other structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the designated officer, and if the Borough has not incurred any costs for repairs, removal of debris or contents or securing, the fund shall be returned to the named insured. If the Borough has incurred costs for repairs, removal of debris or contents or securing of the building or other structure, the cost shall be paid from the fund and if excess funds remain, the Borough shall transfer the remaining funds to the named insured; and

(d) To the extent that interest is earned on proceeds held by the Borough pursuant to this Section, and not returned to the named insured, such interest shall belong to the Borough. 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 Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough 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 IV

The Borough of Wilmerding may by Resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by Resolution fix reasonable fees to be