

FIRE LOSSES ORDINANCE NO. 426

AN 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 has 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 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 as follows:

SECTION 1. Appointment of designated officer.

The Borough of Sykesville Code Enforcement Officer, 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 2. Certificate required prior to payment of claim.

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 Borough of Sykesville where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00, unless the insurer is furnished by the Borough Treasurer with a certificate pursuant to 508 (b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively, the Act) and unless there is compliance with the procedures set forth in 508(c) and (d) of the Act.¹

¹ Editor's Note: See 40 P.S. § 638.

SECTION 3. Payment of municipal claims and expenses.

- A. Where there are delinquent taxes, assessments, penalties or user charges against the property (municipal claims), or there are expenses which the borough has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively, municipal expenses), the Code Enforcement Officer of the borough 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 Treasurer shall furnish, within 14 days after the request to the insurer, a certificate (or at his discretion, an oral notice confirmed in writing) either:
- (1) Stating that there are no unpaid municipal claims or municipal expenses against the property, or
 - (2) Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.
- B. 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 Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of Section 4 hereof.

SECTION 4. Procedures for payment of claims to insured.

When all municipal claims and municipal expenses have been paid pursuant to Section 3, or where the Treasurer has issued a certificate described in Section 3A 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 Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof.
- B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Borough, 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 insurer shall transfer to the Treasurer 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 Treasurer 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 the borough to be required in removing, repairing or securing the building or structure as required by this Ordinance. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the borough in connection with such removal, repair or securing or any proceedings related thereto.
- (2) Mail to the named insured, at the address received from the insurer, a notice that the proceeds have been received by the borough and that the procedures under this subsection shall be followed.
- (3) After the transfer, the named insured may submit to the borough a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event, the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of funds transferred to the borough in excess of that required to pay the municipal expenses, provided that the borough has not commenced to remove, repair or secure the building or other structure, in which case the borough will complete the work.
- (4) Pay to the Code Enforcement Officer, for reimbursement to the borough general fund, the amount of the municipal expenses paid by the borough.
- (5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Code Enforcement Officer that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the borough.
- (6) Nothing in this section shall be construed to limit the ability of the borough to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Ordinance, or to insurance proceeds, by an action at law or in equity to enforce the codes of the borough or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the borough may deem responsible.

SECTION 5. Limits of liability.

Nothing in this Ordinance 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 Ordinance or to make this borough, any borough official, a municipality 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 Ordinance.

SECTION 6. 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 the borough shall have full benefit of such payment including all rights of subrogation and of assignment.

SECTION 7. Construal of provisions.

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 8. Notification of Pennsylvania Department of Community Affairs.

The Secretary of the borough shall transmit a certified copy of this Ordinance promptly to the Pennsylvania Department of Community Affairs.

SECTION 9. Violations and penalties.


Any owner of any property, and named insured or insurer of any person, firm or corporation, who shall violate any provision of this Ordinance or who shall fail to comply with any of the requirements hereof, upon conviction thereof in an action brought before the District Justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$200.00 and nor more than \$1,000.00 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Ordinance continues or each section of this Ordinance which shall be found to have been violated shall constitute a separate offense.

SECTION 10. Effect on other provisions; legislative authority.

The provisions of this Ordinance, so far as they are the same as those of Ordinances enforced immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall it affect any suit or prosecution pending or to be instituted to


enforce any right or penalty or to punish any offense under the authority of any Ordinance repealed by this Ordinance. This Ordinance is pursuant to 40 P.S. § 638, as amended.

Passed by Council of the Borough of
Sykesville on the 3rd day of
December, 2012.



President of Council

ATTEST:



Borough Secretary

Read and approved by me this 3rd day of December, 2012.



Mayor