

TOWNSHIP OF PYMATUNING, MERCER COUNTY, PENNSYLVANIA

ORDINANCE NO. 165 - 1995

AN ORDINANCE AMENDING ORDINANCE No. 159 - 1993 OF THE TOWNSHIP OF PYMATUNING, COUNTY OF MERCER, COMMONWEALTH OF PENNSYLVANIA, ENTITLED "AN ORDINANCE OF THE TOWNSHIP OF PYMATUNING, COUNTY OF MERCER, COMMONWEALTH OF PENNSYLVANIA, PURSUANT TO ACT 98 OF 1992 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, 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 TOWNSHIP OF PYMATUNING", BY PROVIDING FOR THE ESTABLISHMENT OF AMENDMENTS AS SET FORTH IN ACT 93 OF 1994 BY INCREASING THE THRESHOLD IN FIRE LOSS CLAIMS; DESIGNATING THE TOWNSHIP SECRETARY AS THE OFFICIAL RESPONSIBLE FOR COMPLIANCE WITH THIS ORDINANCE; BY INCREASING THE AGGREGATE SUM OF EACH CLAIM TO BE TRANSFERRED TO THE TOWNSHIP AS SECURITY; AND DIRECTING THE FILING OF THE ORDINANCE WITH THE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, the Commonwealth of Pennsylvania has previously enacted Act 98 of 1992 effective on September 7, 1992, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, the Commonwealth of Pennsylvania has again amended the provisions of the Insurance Company Law of 1921, by passage of Act No. 93 of 1994, effective January 11, 1995; and

WHEREAS, the Township of Pymatuning desires to amend its previous Ordinance No. 159-1993 in order to comply with the latest amendments to the Insurance Company Law of 1921 (40 P.S. §638) as amended, to provide for the payment of proceeds from certain fire loss claims to the Township.

BE IT ENACTED AND ORDAINED by the Supervisors of the Township of Pymatuning, and it is hereby ordained and enacted by and with the authority of same as follows:

SECTION 1: That Section 1 of Ordinance No. 159-1993 shall be amended to read as follows:

The Secretary of the Township or such other designee as appointed by the Township Board of Supervisors is authorized to carry out all of the responsibilities and duties stated herein.

SECTION 2. That Section 2 of Ordinance No. 159-1993 is amended to read as follows:

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 Township of Pymatuning (hereinafter the "Municipality") where the amount recoverable from the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred and No/100ths (\$7,500.00) Dollars, unless the named insured or Insuring Agent is furnished by the Treasurer of the Municipality within fourteen (14) days of such request with a municipal certificate pursuant to Section 508(b) of Act 93 of 1994 and unless there is compliance with Sections 508(c) and 508(d) of Act 93 of 1994 and the provisions of this Ordinance, as amended.

SECTION 3. That Section 3 of Ordinance No. 159-1993 is amended to read as follows:

Where pursuant to Section 508(b)(1)(i) of Act 93 of 1994, the Treasurer of the Municipality 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 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 Municipality in the aggregate of Two Thousand and No/100ths (\$2,000.00) Dollars for each Fifteen Thousand and No/100ths (\$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 No/100ths (\$15,000.00) Dollars or less the amount transferred to the Municipality shall be Two Thousand and No/100ths (\$2,000.00) Dollars; 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 the proceeds shall be on a prorata 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 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 the 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 other structure which are incurred by the Municipality. Such costs shall include without limitation, any engineering, legal or administrative cost 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 named insured, the designated officer shall contact the named 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 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 or if some other reasonable disposition of the damaged property has been negotiated.

SECTION 4: That Section 4 of Ordinance No. 159-1993 shall be amended to read as follows:

The Township of Pymatuning may by resolution adopt procedures and regulations to implement Act 93 of 1994, and any subsequent amendments thereto or this Ordinance, and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 93 of 1994, or any subsequent amendments thereto, or this Ordinance; including but not limited to the issuance of certificates and bills, performance of inspections, and opening separate fund accounts.

SECTION 5: The provisions of this Ordinance, so far as they are the same as those of Ordinances and Regulations now in full force and effect prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and Regulations and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense or offenses under the authority of any of those repealed Ordinances or Regulations, or parts thereof.

SECTION 6: The Secretary of the Municipality is hereby directed and authorized to file with the Pennsylvania Department of Community Affairs, or any successor agency as may be established by law, with the name, position and phone number of the municipal official responsible for compliance with this Act, and this Ordinance, or any subsequent amendments thereto, along with an exact cop of this Ordinance and Ordinance No. 159-1993.

SECTION 7: 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 8: The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION 9: All ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 10: This Ordinance shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED finally into law by the Supervisors of the Township of Pymatuning, Mercer County, Pennsylvania, on this 9th day of November, 1995.

ATTEST:

**TOWNSHIP OF PYMATUNING,
MERCER COUNTY, PENNSYLVANIA**

Joseph E. Leventy
Township Secretary

By:

Joseph A. Scherwin
George F. Fudler
George N. Lescisin
(Supervisors)