

ORDINANCE NO.
FIRE INSURANCE ESCROW

AN ORDINANCE OF THE BOROUGH OF GREENSBORO, GREENE COUNTY, PENNSYLVANIA, DETERING THE COMMISSION OF ARSON AND RELATED CRIMES, TO DISCOURAGE THE ABANDONMENT OF PROPERTY AND TO PREVENT URBAN BLIGHT AND DETERIORATION.

WHEREAS, The Commonwealth of Pennsylvania has enacted Act 93 of 1994, effective October 13, 1994, amending 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. 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.

WHEREAS, it is the desire of the Council of the Borough of Greensboro, Greene County, Pennsylvania, 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 of Greensboro, Pennsylvania.

WHEREAS, it is deemed necessary for the safety and welfare of the citizens of the Borough of Greensboro, Greene County, Pennsylvania, to enact this Ordinance.

NOW THEREFORE, pursuant to the specific powers granted by the Borough Code, 8 Pa. C.S.A. § 1202, the Borough Council of Greensboro Borough, Greene County, Pennsylvania, (hereafter "Borough") does hereby enact and ordain the following:

SECTION 1: DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the meanings ascribed to them in this section, except where the context in which the word is used clearly indicates otherwise:

Borough shall mean and include the Borough of Greensboro, Greene County, Pennsylvania.

Code Enforcement Officer shall mean and include the Code Enforcement Officer of the Borough of Greensboro, Greene County, Pennsylvania.

Borough Secretary shall mean and include the secretary of the Borough of Greensboro, Greene County, Pennsylvania.

Insuring Agent shall mean and include any insurance company, association or exchange.

Named Insured shall mean and include the person or persons who are insured for the building or structure where the fire occurred.

SECTION 2: DESIGNATED OFFICER

The Code Enforcement Officer or his designee is hereby appointed as the designated person who is authorized to carry out all responsibilities and duties stated herein.

SECTION 3: PAYMENT OF CLAIMS

No insuring agency 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 where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the Named Insured or Insuring Agent is furnished by the Borough Secretary with a municipal certificate pursuant to Section 638(b) of Act 93 of 1994 and unless there is compliance with Section 638(c) and (d) of Act 93 of 1994 and the provisions of this chapter.

See 40 P.S. § 638.

SECTION 4: LIMITS OF LIABILITY

Pursuant to Section 638 (b)(2)(i) of Act 93 of 1994, the Borough Secretary shall issue a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, and the Insuring Agent shall pay the claim of the Named Insured; provided, however, that if the loss that is agreed upon by the Named Insured and the Insuring Agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- a. The Insuring Agent shall transfer from the insurance proceeds to the Borough in the aggregate of \$2,000 for each \$15,000 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 or less, the amount transferred to the Borough shall be \$2,000.
- b. 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.
- c. The transfer of proceeds shall be on a pro rata basis by all Insuring Agents insuring the building or other structure.
- d. 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 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 or other structure.

SECTION 5: RESPONSIBILITIES OF BOROUGH

- a. Upon receipt of proceeds under Section 4, the Borough shall do the following:
 - a. The Borough Secretary 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 Borough. Such costs shall 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.
 - 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.
 - 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 Borough and the required proof of such completion received by the Code Enforcement Officer, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the Named Insured. If the Borough 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 Borough shall transfer the remaining funds to the Named Insured.
- b. 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.

SECTION 6: CONSTRUAL OF PROVISIONS.

Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this section shall be construed to prohibit the Borough and the Named Insured from entering an agreement that permits the transfer of funds to the Named Insured of some other reasonable disposition of the damaged property has been negotiated.

SECTION 7: VIOLATIONS AND PENALTIES.

Any person, firm, or corporation who or which shall violate or fail, neglect, or refuse to comply with any provision of this Ordinance shall be subject to the following regarding penalties.

- a. In this section, the term "violation of this Ordinance" means:

1. Doing an act that is prohibited, made, or declared to be an unlawful act, an offense, or a violation of this Ordinance by rule or regulation; or
 2. Failure to perform an act that is required to be performed by rule or regulation authorized by this Ordinance; or
 3. Failure to perform an act if the failure is prohibited or declared a violation of this Ordinance, an offense, or an unlawful omission by rule or regulation authorized by this Ordinance.
- b. The term “violation of this Ordinance” does not include the failure of a borough officer or borough employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context of this Ordinance that it is the intent of the borough to impose the penalty provided for in this section upon the borough officer or borough employee.
 - c. Except as otherwise provided, a person convicted of a violation of this Ordinance shall be punished by a civil penalty of \$600.00 per violation.
 - d. Except as otherwise provided:
 1. With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense.
 2. As to other violations, each act is a separate offense.
 - e. Violations of this Ordinance that are continuous with respect to time and may be abated by injunctive or other equitable relief and by such means as are provided by law.
 - f. The imposition of a penalty does not prohibit equitable relief.
 - g. The imposition of a penalty does not prohibit revocation of a license, permit, or franchise or the imposition of other administrative sanctions.
 - h. Any violation of this Ordinance that also violates any state law or federal law shall be prosecuted under the state law or federal law and not under this Ordinance.

SECTION 8: REPEALER

All prior Ordinances, or parts thereof, enacted by the Borough Council of Greensboro Borough which conflict with this Ordinance are hereby repealed.

SECTION 9: SAVINGS CLAUSE

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance,

it is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, sections or part thereof not have been included herein.

SECTION 10: EFFECTIVE DATE

Adopted and enacted this ____ day of _____, 2024, at a meeting of the Council of the Borough of Greensboro.

Attest:

Borough of Greensboro:

Lisa A. Miller, Borough Secretary

Donna J. Neino, President of Council

Examined and Approved this ____ day of _____, 2024.

Edward Abbott, Mayor

Christopher Michael Simms, Esquire