

MUNICIPALITY OF MONROEVILLE
A HOME RULE COMMUNITY, ALLEGHENY COUNTY,
PENNSYLVANIA

ORDINANCE NO. 2265

AN ORDINANCE OF THE MUNICIPALITY OF MONROEVILLE, ALLEGHENY COUNTY, PENNSYLVANIA, A HOME RULE CHARTER COMMUNITY, AMENDING ORDINANCE NUMBER 1873 TO INCORPORATE THE PROVISIONS OF ACT 47 OF 1999 AND BE FOLLOWED BY THE MUNICIPALITY OF MONROEVILLE WHICH REQUIRES THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO THE MUNICIPALITY AS A SOURCE OF RECOVERY OF DELINQUENT TAXES, ASSESSMENTS, PENALTIES OR USER CHARGES AND ALSO TO CREATE A SECURITY FUND 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 THE IMPLEMENTATION OF ACT 47 OF 1999.

WHEREAS, the Commonwealth of Pennsylvania has enacted "Act 47" of 1999, 40 P.S. Section 638 amending "Act 98" of 1992 all of which provides 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 Municipality of Monroeville has previously enacted Ordinance Number 1873 to implement the provision of "Act 98" of 1992; and

WHEREAS, the Commonwealth of Pennsylvania has by "Act 47" of 1999

amended "Act 98" of 1992.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Municipality of Monroeville as follows:

SECTION 1. The Municipal Manager or his designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein; and

SECTION 2. The provisions of "Act 47" of 1999, 40 P.S. Section 638 are hereby incorporated in this Ordinance by reference. A true and correct copy of "Act 47" of 1999 is attached hereto and incorporated herein as Exhibit "A"; and

SECTION 3. The Municipal Council may, by Resolution adopt additional procedures and regulations to implement this Ordinance and may by Resolution, fix reasonable fees to be charged for Municipal activities or services provided pursuant to this Ordinance; including but not limited to issuance of certificates and bills, performance of inspection, opening separate fund accounts and for providing repair and restoration when necessary.

SECTION 4. Any owner of property, any named insured or any insuring company or agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

SECTION 5. The provisions of this Ordinance shall be severable, and if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of the Ordinance shall remain in effect.

SECTION 6. Any Ordinance or part of any Ordinance conflicting with any of the

provisions of this Ordinance are hereby repealed insofar as the same effects this Ordinance.

SECTION 7. This Ordinance shall become effective immediately.

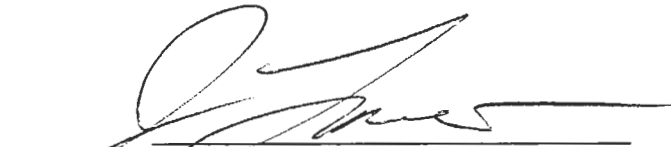
SECTION 8. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ORDAINED and ENACTED this 10th day of June, 2003.

ATTEST:



Marshall Bond, Municipal Manager



James J. Lomeo
Mayor

ENTERED INTO LEGAL BOOK: June 20, 2003

PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED
PURDON'S PENNSYLVANIA STATUTES ANNOTATED
TITLE 40. INSURANCE
CHAPTER 2. INSURANCE COMPANIES
ARTICLE V. FIRE AND MARINE INSURANCE
(A) GENERAL PROVISIONS RELATING TO STOCK AND MUTUAL COMPANIES AND TO ASSOCIATIONS AND EXCHANGES

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Current through Act 2002-237 (End)

§ 638. Municipal certificate required prior to payment of fire loss claims

(a) No insurance company, association or exchange doing business in this Commonwealth shall pay a claim of a named insured for fire damage to a structure located within a municipality where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500) unless the insurance company, association or exchange is furnished with a certificate pursuant to subsection (b) of this section and unless there is compliance with the procedures set forth in subsections (c) and (d) of this section.

(b)(1) The municipal treasurer shall, upon the written request of the named insured specifying the tax description of the property, name and address of the insurance company, association or exchange and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a loss report of the claim, furnish the insurance company, association or exchange either of the following within fourteen (14) working days of the request:

(i) a certificate or, at the discretion of the municipality, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the treasurer's certificate or verbal notification, no municipality has certified any amount as total costs incurred by the municipality for the removal, repair or securing of a building or other structure on the property; or

(ii) a certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the treasurer's certificate, the amount of the total costs, if any, certified to the treasurer that have been incurred by a municipality for the removal, repair or securing of a building or other structure on the property. For the purposes of this subclause, the municipality shall certify to the treasurer the total amount, if any, of such costs. A tax, assessment, penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the municipality under applicable law.

(2)(i) Upon the receipt of a certificate pursuant to clause (1)(i) of this subsection, the insurance company, association or exchange shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure. In the case of such a loss, the insurance company, association or exchange, the insured property owner and the municipality shall follow the procedures set forth in subsections (c) and (d) of this section.

(ii) Upon the receipt of a certificate and bill pursuant to clause (1)(ii) of this subsection, the insurance company, association or exchange shall return the bill to the treasurer and transfer to the treasurer an amount from the

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insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. The municipality shall receive the amount and apply or credit it to payment of the items shown in the bill.

(c) When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000) and each fraction of that amount of a claim, or, if at the time of a loss report the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund 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. This subsection only applies to municipalities that have adopted an ordinance authorizing the procedure described in subsections (c) and (d) of this section and applies only to fire losses that occur after the adoption of the ordinance. The ordinance shall designate the officer authorized to carry out the duties of this section.

(d) Upon receipt of proceeds by the municipality as authorized by this section, the designated officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the municipality. When transferring the funds as required in subsection (c) of this section, an insurance company, association or exchange shall provide the municipality with the name and address of the named insured, whereupon the municipality 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. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the designated officer if the municipality has not incurred any costs for repairs, removal or securing. 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. Nothing in this section shall be construed to limit the ability of a municipality to recover any deficiency. Further, 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.

(e) Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with subsection (c) of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange with subsection (c) of this section.

(f) Nothing in this section 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 section or to make 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 section.

(g) An insurance company, association or exchange making payments of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by a municipality shall have a full benefit of such payment, including all rights of subrogation and of assignment.

(h) Subsections (a) and (b) of this section shall apply only to municipalities that have adopted an ordinance authorizing the procedure set forth in subsections (a) and (b) and only to fire losses that occur after the effective date of the ordinance.

(i) When an ordinance is first passed or adopted by a municipality under subsections (a) and (b) of this section or subsections (c) and (d) of this section, or both, an exact copy of the ordinance shall be filed with the Department of Community Affairs together with the name, position and phone number of the municipal official responsible for compliance with this section. Each municipality enacting an ordinance under this section shall supply the information required by this subsection to the Department of Community Affairs as part of the implementation of its ordinance. The Department of Community Affairs shall periodically produce a register listing those municipalities filing the ordinance. This register shall be made available to insurance companies at minimum cost. An insurance company, association or exchange shall not be required to comply with any municipal ordinance if the municipality fails to provide a copy of the ordinance to the Department of Community Affairs.

(j) The term "municipality," as used in this section, shall mean any city, borough, town, township or home rule municipality. The term "treasurer," as used in this section, shall mean an elected treasurer or other appropriate municipal officer authorized to collect real property taxes.

(k) This section 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.

CREDIT(S)

1999 Main Volume

1921, May 17, P.L. 682, No. 284, § 508, added 1992, July 9, P.L. 678, No. 98, § 1, effective in 60 days.
Amended 1994, Oct. 13, P.L. 609, No. 93, § 1, effective in 90 days.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Main Volume

The 1994 amendment, in subsec. (a), increased the fire loss limit from five thousand dollars to seven thousand five hundred dollars, and rewrote subsec. (b)(1) and (b)(1)(i), which formerly read:

"(1) The municipal treasurer shall, upon the written request of the named insured specifying the tax description of the property and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a proof of loss of the claim, furnish the named insured either of the following, which shall then be supplied by the named insured to the company, association or exchange:

"(i) a certificate to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the treasurer's certificate, no municipality has certified any amount as total costs incurred by the municipality for the removal, repair or securing of a building or other structure on the property; or"

The 1994 amendment also added the last sentence in subsec. (b)(1)(ii) and rewrote subsec. (c), which formerly read:

"When the loss agreed to between the named insured and the company, association or exchange equals or exceeds sixty per centum (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate one thousand dollars (\$1,000) for each twenty thousand dollars (\$20,000) and each fraction of that amount of a claim, or, if at the time of a proof of loss agreed to between the named insured and the insurance company, association or exchange the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the municipality shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund 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. This subsection only applies to municipalities that have adopted an ordinance authorizing the procedure described in subsections (c) and (d) of this section and applies only to fire losses that occur after the adoption of the ordinance. The ordinance shall designate the officer authorized to carry out the duties of this section."

The 1994 amendment also added subsecs. (h) to (j) and redesignated former subsec. (h) as subsec. (k).

LIBRARY REFERENCES

1999 Main Volume

Insurance ↪ 3173
Westlaw Topic No. 217
C.J.S. Insurance § 1246, 1281, 1285, 1303

NOTES OF DECISIONS

Mortgagee rights 1

1. Mortgagee rights

Statute requiring fire insurer to satisfy municipality's claims for delinquent taxes and assessments before paying the named insured did not apply to mortgagee, and, thus, property insurers' payment to township was not credit against obligation to mortgagee. *Sotelo v. Washington Mut. Ins. Co.*, 734 A.2d 421, Super.1999.

40 P.S. § 638