

BK 10
Pg 42

West Wyoming Borough Ordinance Number 1 of 2008

Fire Insurance Escrow Ordinance

WHEREAS: The Borough of West Wyoming and its Council desire to establish an ordinance for a Fire Insurance Escrow and establish an ordinance for payment of delinquent taxes and other delinquent charges from Fire Insurance Proceeds

NOW THEREFORE BE IT RESOLVED BY THE Council of the Borough of West Wyoming and it is hereby ordained by the authority of same:

OFFICIAL RESPONSIBILITY

The West Wyoming Borough Secretary or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

DEFINITION

A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders to the policy.

PROCEDURES

No insurance company, association or exchange (hereinafter "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 of West Wyoming (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred (\$7, 500) Dollars, unless the named insured or Insurance Agency is furnished by the municipal secretary with a municipal certificate pursuant to Section 508(B) of 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 Article and Article 362 (relating to payment of delinquent taxes from the fire insurance proceeds. Any request to the municipal secretary for a municipal certificate shall be in writing.

Where pursuant to Section 508(B)(1)(l) of Act 98 of 1992, and Article 362 (relating to payment of delinquent taxes from fire insurance proceeds), the municipal secretary issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agency shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agency equals or exceeds sixty(60) percent of the aggregate limit of liability on all fire policies covering the building or structure, the following procedures must be followed:

1. The Insurance Agency shall transfer from the insurance proceeds to the designated officer of the Municipality 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 Municipality shall be \$2,000; and

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, repair or securing the building or other structure, the Insuring Agency shall transfer to the Municipality 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. Policy proceeds remaining after the transfer to the Municipality shall be disbursed in accordance with the policy terms.
4. After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing and/or securing the building or other structure, and the designated officer shall return the amount of funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair and/or secure the building or other structure.
5. Upon receipt of 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 and/or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair and/or securing of the building or structure or any proceedings related thereto; and
 - b. It is the obligation of the Insurance 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 and/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 repair removal and/or securing, the fund shall be returned to the named insured. If the municipality has incurred costs for repairs, removal and/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; 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.
6. Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this section subsection shall be construed to prohibit the Municipality and the named insured from entering into any agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

AMENDING PROCEDURES

The Council for West Wyoming Borough, the municipality, 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 charged for municipal activities or services provided pursuant to Act 98 of 1992 and this ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

SEVERABILITY

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.

PENALTY

Any owner of property, any named insured or any Insuring Agency who violates this ordinance shall be subject to a penalty of up to \$1,000 per violation..

PAYMENT OF DELINQUENT TAXES AND OTHER CHARGES DUE THE MUNICIPALITY FROM FIRE INSURANCE PROCEEDS

OFFICAL RESPONSIBILITY

The Borough secretary or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

DEFINITION

A "fire loss" or claim for fire damage is defined as any loss occurring after the effective date of this Ordinance and covered under a policy of fire insurance, including any endorsements or riders to the policy.

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policies exceeds seven thousand five hundred (\$7, 500) Dollars, unless the named insured or Insurance Agency comply with the provisions of Section 508(b) of Act 98 of 1992, the provisions of this Ordinance and Article 361(relating to fire insurance escrow)

The designated officer shall upon written request of the named insured specifying the tax description of the property, name and address of the insurance Agency and the date agreed upon by the Insuring Agency and the named insured as the date of the receipt of a loss report of the claim; furnish the Insuring Agency either of the following within fourteen (14) working days of the request:

1. A certificate, or at the discretion of the Municipality, a verbal notification which shall be confirmed in writing by the Insuring Agency 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 designated officer's certificate or verbal notification, the Municipality has not 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

2. A certificate and bill showing the amount of delinquent taxes, assessments, penalties and use 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 designated officer's certificate, the amount of the total costs, if any, certified to the designated officer that have been incurred by the Municipality for the removal; repair and/or securing of a building or other structure on the property. For the purposes of this provision, the Municipality shall provide, to the designated officer, the total amount, if any, of such costs, if available, or the amount of costs known to the Municipality at the time of the designated officer's certificate.

3. 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 the applicable law.

4. Upon receipt of a certificate pursuant to subsection (1) herein, the Insuring Agency shall pay the claim of the named insured in accordance with the policy terms and Article 361(relating to fire insurance escrow).

5. Upon receipt of a certificate and bill pursuant to subsection (2) herein, the insuring Agency shall return the bill to the designated officer and transfer to the designated officer, an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill, or the full amount of the insurance proceeds, whichever is the lesser amount. The Municipality shall receive the amount and apply or credit it to the payment of the items shown in the bill.

6. Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency.

7 The transfer of proceeds to the designated officer shall be on a pro-rata basis by all Insuring Agencies with applicable policies of insurance providing protection for fire loss

. AMENDING PROCEDURES

The Council for West Wyoming Borough, the municipality, 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 charged for municipal activities or services provided pursuant to Act 98 of 1992 and this ordinance; including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

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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.

PENALTY

Any owner of property, any named insured or any Insuring Agency who violates this ordinance shall be subject to a penalty of up to \$1,000 per violation..

Passed by West Wyoming Borough Council on 10th day of March, 2008 and signed by the Mayor on the 10th day of March, 2008.

Daniel Descauge

President of Council

Joseph L. Herber
Mayor

Attest:

Thomas A. Peters

Borough Secretary