

## **ORDINANCE**

### **“Fire Insurance Ordinance”**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF SPRINGFIELD, CHAPTER 49 (INSURANCE) TO REPEAL AND REPLACE ARTICLE I (FIRE INSURANCE CLAIMS) TO UPDATE THE PROCEDURES FOR THE ISSUANCE OF A CERTIFICATE PRIOR TO PAYMENT OF FIRE LOSS INSURANCE CLAIMS FOR PROPERTIES IN THE TOWNSHIP.**

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**WHEREAS**, Section 638 of the Insurance Department Act of 1921, as amended, 40 P.S. § 638 (“Section 638”) provides that no insurance company, association or exchange shall pay a claim for fire damage to a structure within Springfield Township (the “Township”) until the insurance company receives a municipal certificate from the Township;

**WHEREAS**, on May 12, 1993, the Board of Commissioners of Springfield Township adopted Ordinance No. 793, which established the procedures of the Township related to Section 638 municipal certificates in Chapter 49 (Insurance), Article I (Fire Insurance Claims) of the Township Code; and

**WHEREAS**, since the adoption of Ordinance No. 793, certain procedures and monetary limits contained in Section 638 were amended; and

**WHEREAS**, the Board of Commissioners of Springfield Township believe it to be prudent to update the procedures contained in Chapter 49 (Insurance), Article I (Fire Insurance Claims) of the Township Code in order to more accurately reflect those provided in Section 638.

**NOW THEREFORE**, it is hereby **ENACTED** and **ORDAINED** by the Board of Commissioners of Springfield Township as follows:

## **SECTION I. - Amendment to the Code.**

The Code of Springfield Township, Chapter 49 (Insurance) is hereby amended to repeal Article I (Fire Insurance Claims) of the Township Code and replace it with the following new Article I:

### **Article I. Fire Insurance Claims.**

#### **§ 49-1. Designated Officer.**

The Township Manager or other duly authorized representative appointed by the Township Board of Commissioners is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein and in accordance with Section 638 of The Insurance Department Act of 1921, as amended, 40 P.S. § 638 (“Section 638”).

#### **§ 49-2. Municipal Certificate Required.**

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 Springfield Township where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the Insuring Agent is furnished by the Township Treasurer with a municipal certificate pursuant to Section 638(b) and unless there is compliance with Section 638(c) and (d) and the provisions of this Article. Any request to the Township Treasurer for a municipal certificate shall be in writing.

#### **49-3. Payment Procedures.**

- A. Pursuant to Section 638(b)(1)(i), upon receipt of a written request for municipal certificate specifying the address, tax parcel identification number, name and address of Insuring Agent(s), name and address of owner and an administration fee in an amount required by the currently applicable Township Fee Schedule (as adopted and amended by Resolution of the Township Board of Commissioners), the Township Treasurer and Township Manager shall issue within fourteen (14) days of such request either:
  - (1) A municipal certificate or, at the discretion of the Township, a verbal notification which shall be confirmed in writing by the Insuring Agent, 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 municipal certificate or verbal notification, the Township has not certified any amount as

total costs incurred by the Township for the removal, repair or securing of a building or other structure on the property; or

- (2) A municipal certificate and itemized 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 municipal certificate and also showing, as of such date, the amount of the total costs, if any, certified by the Township Treasurer and/or Township Manager that have been incurred by the Township for the removal, repair or securing of a building or other structure on the property.

B. If the Township issues a municipal certificate in accordance with Subsection 49-3.A.(2), then the Insuring Agent shall transfer from the insurance proceeds to the Township Manager an amount sufficient to pay all delinquent taxes, assessments, penalties and user charges against the property and all expenses the Township has incurred for costs of removal, repair or securing of a building or other structure on the property prior to making any insurance disbursement to the named insured, subject to the provisions of Section 49-6 hereof.

C. If the Township issues a municipal certificate in accordance with Subsection 49-3.A.(1), then 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 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

- (1) If at the time of a loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Township from the insurance proceeds the amount specified in the estimate.
- (2) The insuring agent shall transfer from the insurance proceeds to the designated officer of the Township in the aggregate of two thousand dollars (\$2,000) for each fifteen thousand dollars (\$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 twenty thousand dollars (\$20,000) or less, the amount transferred to the municipality shall be one thousand dollars (\$1,000).

D. The transfer of proceeds by Insuring Agent(s) shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

- E. 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 municipality in excess of the estimate to the named insured, if the Township has not commenced to remove, repair or secure the building or other structure.

#### **49-4. Escrow of Funds by Township.**

Upon receipt of proceeds under Section 49-3 (Payment Procedures), 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 structure which are incurred by the Township. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing of the building or any proceeding related thereto.
- B. It is the obligation of the Insuring Agent when transferring the proceeds to provide the Township 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 Township 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 by in accordance with all applicable regulations and orders of the Township and the required proof of such completion is received by the designated officer, and if the Township has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Township has incurred costs for repairs, removal or securing of the building or other structure, the cost shall be paid from the fund, and, if excess funds remain, the Township shall transfer the remaining funds to the named insured.
- D. To the extent that interest is earned on any proceeds held by the Township that, pursuant to this Section, are not returned to the named insured, such interest shall belong to the Township. To the extent that proceeds are returned to the named insured, interest earned on such returned proceeds shall be distributed to the named insured at the time that the proceeds are returned.

#### **49-5. Construal of Provisions.**

Nothing in this Article shall be construed to limit the ability of the Township to recover any deficiency. Furthermore, nothing in this Article shall be construed to prohibit the Township 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, as determined by the parties, has been negotiated.

#### **49-6. Insurance Company Rights Reserved.**

An Insuring Agent making payments of policy proceeds under Section 638 for delinquent taxes or structural removal liens or removal expenses incurred by the Township shall have full benefit of such payment, including all rights of subrogation and of assignment.

#### **49-7. Establishment of Regulations and Fees.**

The Board of Commissioners may by resolution adopt procedures and regulations to implement Section 638 and this Article and may by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Section 638 and this Article, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

#### **49-8. Violations and Penalties.**

Any owner of property, any named insured or any Insuring Agent who violates this Article shall be subject to a penalty of up to one thousand dollars (\$1,000) per violation.

### **SECTION II. - Severability.**

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION III. - Failure to Enforce Not a Waiver.**

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**SECTION IV. - Effective Date.**

This Ordinance shall take effect and be in force from and after its approval as required by the law.

**SECTION V. - Repealer.**

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

**ORDAINED** and **ENACTED** by the Board of Commissioners of Springfield Township, Montgomery County, Pennsylvania, this \_\_\_\_ day of \_\_\_\_\_, 2021.

**SPRINGFIELD TOWNSHIP**

**BY:** \_\_\_\_\_  
**Baird M. Standish**, President  
Board of Commissioners

**ATTEST:** \_\_\_\_\_  
**A. Michael Taylor**, Secretary  
Board of Commissioners

