

**WEST MEAD TOWNSHIP
CRAWFORD COUNTY, PENNSYLVANIA**

Ordinance No. 2010- 1

AN ORDINANCE ADOPTED PURSUANT TO ACT 98 OF 1992, AS AMENDED, TO PROVIDE FOR RECOVERY OF INSURANCE PROCEEDS IN CASES OF FIRE LOSS TO PROPERTY WITHIN WEST MEAD TOWNSHIP TO ASSURE RECOVERY OF MUNICIPAL TAXES AND CHARGES AND RECOVERY OF COSTS RELATED TO DISPOSITION OF PROPERTY DAMAGED BY FIRE WITHIN THE TOWNSHIP, AND TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE.

Whereas, Act 98 of 1992, as thereafter amended, authorizes Pennsylvania municipalities to adopt ordinances that enable municipalities to recover (a) delinquent taxes, user charges and assessments against a property damaged by fire, and (b) costs relating to securing, repairing or removing fire damaged property from insurance proceeds payable as a result of the fire damage; and

Whereas, the Board of Supervisors of West Mead Township desires to enact an ordinance to provide for the recovery of such costs, taxes and charges as so authorized.

Now, Therefore, be it ordained by the Board of Supervisors of West Mead Township, and it is hereby ordained by and with the authority of same as follows:

1. **Title.** The title of this Ordinance shall be the West Mead Township Fire Insurance Escrow Ordinance.
2. **Purpose.** The purpose of this Ordinance is to provide for recovery of Township claims for delinquent taxes, assessments, municipal liens, service fees and costs of removal or security of a building damaged by fire from fire insurance proceeds payable as a result of a fire loss to a building or premises; to deter the commission of arson and related crimes; and to discourage abandonment of fire-damaged property to prevent blight.
3. **Authority.** This Ordinance is adopted pursuant to the authority of Section 508 of the Insurance Company Law of 1921, as amended by Act 98 of July 9, 1992, and as thereafter amended, which law is found at 40 P.S. §638, and as same may be amended. Hereinafter, this law is referred to as the "Fire Insurance Escrow Act" or "Act".
4. **Administration.** The Township Treasurer or Assistant Treasurer is hereby designated as the officer authorized and designated to administer this Ordinance and the responsibilities of Section 508 of the Fire Insurance Escrow Act.

5. **Disposition of Insurance Covering Fire Damaged Structures.** In accordance with the provisions of Section 508 of the Act, no insurance company, association or exchange (hereinafter referred to as “Insurer”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within West Mead Township where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500.00 unless the Insurer has complied with the requirements set forth in this Ordinance and Sections 508(a) through (d) of the Fire Insurance Escrow Act.
6. **Certification of Amounts Due Township.** In accordance with Section 508(b) of the Act, the Township Treasurer shall, within 14 days of a request by an Insurer or insured, furnish to an Insurer with insurance coverage on the subject property:
 - A. A written certificate or 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, liens, penalties or user charges against the property and that, as of the date of the Treasurer’s certificate or verbal notification, the Township had incurred no costs for the removal, repair or securing of a building or other structure on the property; or
 - B. A written certificate and bill showing the amount of delinquent taxes, assessments, liens, 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 certificate and also showing, as of the date of the Treasurer’s certificate, the amount of the total costs, if any, incurred by the Township for the removal, repair or securing of a building or other structure on the property.
7. **Insurer Payment of Amounts Due for Past Township Taxes, Liens and Expenses.** Upon the receipt of a certificate and bill pursuant to Section 6B above, the Insurer shall return the bill to the Township Treasurer and transfer to the Treasurer an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. Upon receipt of such amount, the Township shall apply or credit it to payment of the items shown in the bill.
8. **Insurance Proceeds to be Delivered to Township to Secure Payment of Future Township Expenses.** In accordance with Section 508(c) of the Act, if the fire loss is greater than \$7,500.00, and equals or exceeds 60% of the aggregate limits of liability on all fire insurance policies covering the building or structure, as agreed between the named insured and the Insurer, then the Insurer shall transfer from the insurance proceeds to the Township Treasurer such amounts as shall be determined in accordance with the formula set forth in Section 508(c), which shall be equal to:

- A. The aggregate of \$2,000.00 for each \$15,000.00, and each fraction of that amount, of the claim; or
- B. If the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or structure in an amount less than the amount calculated in the manner above, then the amount specified in the estimate shall be transferred by the Insurer to the Township Treasurer; or
- C. Such other amount as calculated in accordance with the provisions of the Act.

Transfer of proceeds under multiple insurance policies shall be made on a pro-rata basis by all Insurers insuring the building or property.

- 9. **Disposition of Insurance Proceeds by Township.** The insurance proceeds transferred to the Township under authority of Section 508(c) of the Act and Section 8 of this Ordinance shall be accounted for and used in the following manner:

- A. The Treasurer 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, structure or premises as incurred by the Township. Such costs shall include, without limitation, engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing of the building or any proceedings related thereto;
- B. The Insurer, when transferring the funds, shall 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 Treasurer shall contact the named insured, certify that the proceeds have been received by the Township, and notify the named insured of the process for disposition of the funds;
- C. When repairs, removal or securing of the building, structure or premises have been completed in accordance with all applicable regulations and orders of the Township and the required proof of such completion has been received by the Township, and if the Township has not incurred any costs for repairs, removal or securing of the building or other structure, 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 costs shall be paid from the fund and, if excess funds remain, the Township shall transfer the remaining funds to the named insured.

- 10. **Insurance Information to be Reported.** At the request of the Township or its representative, any person who owns a building or structure damaged by fire or

who is a named insured under a fire insurance policy covering such building or structure, shall provide information to the Township regarding the Insurer or Insurers providing fire insurance covering such property and any other pertinent information relating thereto. An Insurer with insurance coverage on a building or structure within the Township which has been damaged by fire shall provide information to the Township concerning the insurance, the loss and any other pertinent information relating thereto.

11. **Right to Recover Township Costs Preserved.** Nothing in this Ordinance shall be construed to limit the ability of the Township to recover any costs, expenses or charges not covered by the insurance proceeds. Furthermore, nothing in this Ordinance 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 has been negotiated.
12. **Rules for Administration.** The Township Supervisors may, by Resolution, adopt procedures for administering the Act and this Ordinance and may, by Resolution, fix reasonable fees to be charged for administrative services provided pursuant to the Act and this Ordinance including, but not limited to, issuance of certificates and bills, and opening separate fund accounts.
13. **Notice of Violation.** In the event a person or an insurer fails or refuses to comply with the requirements of this Ordinance and Section 508 of the Act, a written notice of such violation shall be given. The notice of violation shall identify the property, the insured, the Insurer, the violation, the remedial action required, the time allowed for remedial action, and the penalty to be assessed for failure to correct the violation.
14. **Civil Penalty.** In the event a violation is not remedied, a civil penalty in the amount of \$100.00 shall be assessed against all persons and insurers who violate or permit the violation of this Ordinance. Each day a violation continues shall constitute a separate violation, except for periods of time allowed by the Township for correction of the violation. The penalty assessed shall be due and payable within 30 days after notice of the assessment is billed.
15. **Civil Enforcement Proceedings.** In the event the penalty assessed is not paid when due, the Township may initiate a civil enforcement proceeding before a district justice to recover a civil penalty for each violation in an amount not to exceed \$600.00. In the event the person against whom the civil penalty was assessed is found liable, the violator shall be liable for the penalty imposed, including additional penalties for continuing violations, plus court costs and reasonable attorneys' fees incurred by the Township in the enforcement proceedings.

16. **Other Remedies.** In addition to assessing and recovery of a civil penalty, the Township shall have the right to obtain any other remedy allowed by law, which may include, but shall not be limited to, instituting an action to enforce the provisions of this Ordinance and Section 508 of the Act, and to recover amounts due the Township under the provisions of Section 508 of the Act.
17. **Severability.** Should any section, part or provision of this Ordinance be declared by appropriate authority to be unlawful or unconstitutional, all other terms, conditions, provisions and parts hereof shall continue in full force and effect as if the provision declared to be unlawful or unconstitutional had been omitted as of the date of final enactment hereof.
18. **Repealer.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
19. **Effective Date.** This Ordinance shall be effective 5 days after enactment.

Ordained and Enacted by the Board of Supervisors of West Mead Township this 11th day of May, 2010.

WEST MEAD TOWNSHIP BOARD OF SUPERVISORS

By: William J. Greenberger
Chairman

By: Michael J. Jacob
Supervisor

By: _____
Supervisor

ATTEST:

William J. Greenberger
Secretary