

ORDINANCE NO. 96-4

AN ORDINANCE OF THE TOWNSHIP OF UNION, UNION COUNTY, PENNSYLVANIA, PROVIDING THAT AN INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL NOT PAY A CLAIM FOR STRUCTURAL FIRE DAMAGE IN EXCESS OF \$7,500.00 UNLESS A TAX CERTIFICATION IS FURNISHED AND ALL TAXES DUE ARE PAID; REQUIRING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER A PORTION OF THE INSURANCE PROCEEDS TO THE TOWNSHIP TO BE HELD AS SECURITY AGAINST THE TOTAL COSTS OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING; ESTABLISHING PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH TAX CERTIFICATION AND INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF ACT 98 OF 1992, AS AMENDED, IN THE TOWNSHIP; PROVIDING FOR FEES; AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, the Commonwealth of Pennsylvania has enacted Act 98 of 1992, as amended, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims; and

WHEREAS, it is the purpose of the 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 Township of Union desires to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921, as amended, [40 P.S. §638] to provide for the payment of proceeds for certain fire loss claims to the Township.

NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors of the Township of Union, Union County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

Section 1. The Township Treasurer, or such authorized designee as approved by the Board of Supervisors, is hereby appointed as the designated officer who is authorized to carry out all responsibilities stated in this Ordinance.

Section 2. No insurance company, association or exchange (hereinafter referred to as 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 the Township where the amount recoverable for the fire loss to the structure under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, unless the Insuring Agent is furnished by the Township's Tax Collector

with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992, as amended, and unless there is compliance with Sections 508(c) and 508(d) of Act 98 of 1992, as amended, and the provisions of this Ordinance.

Section 3. The Township's Tax Collector shall, upon the written request of the named insured specifying the tax description of the property, the name and address of the Insuring Agent and the date agreed upon by the Insuring Agent and the named insured as the date of the receipt of a loss report of the claim, furnish the Insuring Agent either of the following within fourteen (14) working days of the said request:

1. a certificate or, at the discretion of the Township, a verbal notification which shall be confirmed in writing by the Insuring Agent to the effect that, as of the date specified in the said request there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the 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 certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the said request that have not been paid as of the date of the certificate and also showing, as of the date of the certificate, the amount of the total costs, if any, certified to the Township's Tax Collector that have been incurred by the Township for the removal, repair, or securing of a building or other structure on the property. For the purposes of this subsection, the Township shall certify to the Township's Tax Collector 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 Township under applicable law.

Section 4. Upon the receipt of a certificate and bill pursuant to Section 3(2) of this Ordinance, the Insuring Agent shall return the bill to the Township's Tax Collector and transfer to the Township's Tax Collector an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. The Township shall receive the amount and apply or credit it to payment of the items shown in the bill.

Section 5. Upon the receipt of a certificate pursuant to Section 3(1) of this Ordinance, the Insuring Agent shall pay the claim of the named insured in accordance with the policy terms; provided, however, that if the loss agreed to between the named insured and the Insuring Agent equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the building or other structure, the following procedures shall be followed:

1. The Insuring Agent shall transfer from the insurance proceeds to the Township Treasurer in the aggregate Two Thousand (\$2,000.00) Dollars for each Fifteen Thousand (\$15,000.00) Dollars and for each fraction of that amount of a claim (this subsection to be applied such that if the claim is \$15,000.00 or less, the amount transferred to the Township shall be \$2,000.00), 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 Insuring Agent shall transfer from the insurance proceeds to the Township Treasurer the amount specified in the estimate.

2. The transfer of the proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.

3. After the aforesaid transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, in which event the Township Treasurer shall return the amount of the funds transferred to the Township 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.

4. Upon receipt of the proceeds under this Section, the Township shall do the following:

a. the Township 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 or other 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 other structure or any proceedings 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 Township Treasurer 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 in accordance with all applicable regulations and orders of the Township and the required proof of such completion received by the Township Treasurer, the fund shall be returned to the named insured if the Township has not incurred any costs for repairs, removal or securing, but 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 to the Township and if excess funds then remain, the Township shall transfer the remaining funds to the named insured; and

d. to the extent that interest is earned on proceeds held by the Township pursuant to this Section and not returned to the named insured, such interest shall belong to the Township, but 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.

5. Nothing in this Section shall be construed to limit the ability of the Township to recover any deficiency. Furthermore, nothing in this Section 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.

Section 6. The Board of Supervisors may from time to time by resolution adopt procedures and regulations to implement Act 98 of 1992, as amended, and this Ordinance and may from time to time by resolution fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992, as amended, and this Ordinance, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

Section 7. Any owner of property, named insured, or Insuring Agent who violates any provision of this Ordinance shall be subject to a civil fine of not more than \$1,000.00 for each violation, which shall be paid within no more than thirty (30) days from the date of its imposition. The violator shall be notified in writing of the violation and the fine imposed, which notice shall be served by either first-class regular mail or personal delivery and shall include, but not be limited to, citing the specific violation, the amount of the fine imposed, the nature of the proceeding as being civil, the time within which the fine is

to be paid, and the consequences of failure to pay the fine by the indicated due date. Nothing herein shall prevent the Township from providing the violator with a period during which no fine would be imposed or civil action taken if the violator ceases the violation or otherwise comes into compliance with this Ordinance by a specified date. In the event that the imposed civil fine is not paid by the indicated due date, civil enforcement proceedings shall be initiated by filing an appropriate Complaint against the violator in order to achieve compliance with this Ordinance and to obtain payment of a civil fine up to the maximum thereof, plus court costs and reasonable attorney's fees.

Section 8. If any section, subsection, paragraph, provision or clause of this Ordinance shall be judged to be invalid, void or unenforceable, such adjudication shall not affect the remaining sections, subsections, paragraphs, provisions and clauses of this Ordinance which shall remain in full force and effect.

Section 9. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed.

Section 10. This Ordinance shall become effective five (5) days after enactment.

ENACTED AND ORDAINED as an Ordinance of the Township of Union, Union County, Pennsylvania, this 2ND day of July, 1996.

ATTEST:

TOWNSHIP OF UNION:

Shirley L. Doyle  
Shirley L. Doyle, Secretary

(SEAL)

R. Nelson Poe  
R. Nelson Poe, Chairman

Thomas S. Reitz  
Thomas S. Reitz, Supervisor

K. Palmer Felme  
K. Palmer Felme, Supervisor