

**UPPER SAUCON TOWNSHIP  
LEHIGH COUNTY, PENNSYLVANIA  
ORDINANCE NO. 171**

**AN ORDINANCE PROVIDING FOR THE TRANSFER OF INSURANCE PROCEEDS TO THE TOWNSHIP TREASURER IN THE EVENT THAT REAL PROPERTY SUFFERS A LOSS DUE TO FIRE AND THE PROPERTY IS SUBJECT TO DELINQUENT TAXES, ASSESSMENTS, PENALTIES AND USER CHARGES OR IN THE EVENT THAT COSTS HAVE BEEN INCURRED BY THE TOWNSHIP TO REMOVE, REPAIR OR SECURE A BUILDING OR OTHER STRUCTURE ON THE PROPERTY AND PROVIDING FOR PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS AND TO THE IMPLEMENTATION OF SAID LEGISLATION IN THE TOWNSHIP.**

**I. Legislative History**

**WHEREAS**, the Commonwealth of Pennsylvania enacted Act 98 of 1992 and Act 93 of 1994, amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims (hereinafter referred to as the “Act”); and

**WHEREAS**, the Act is codified at 40 P.S. 638; and

**WHEREAS**, it is the purpose of the Act to deter arson and related crimes, to discourage the abandonment of property due to fire, to prevent urban blight and deterioration and to assure payment for repairs and clean up after a fire loss by requiring an insurance company to pay insurance proceeds to Upper Saucon Township (hereinafter, “Township”) which would be otherwise payable to an insured as a result of the loss; and

**WHEREAS**, the Act requires that the Township implement an ordinance to take advantage of the protections afforded to the Township by the Act which protections include the payment of encumbrances on such property including delinquent taxes, assessments or penalties; user charges against the property and costs incurred by the Township to remove, repair or secure buildings or structures damaged or destroyed by fire located on the property; and

**WHEREAS**, the Township desires to adopt an Ordinance pursuant to 40 P.S. 638, to provide for the payment of insurance proceeds payable as a result of certain fire loss claims to the Township.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Upper Saucon, Lehigh County and Commonwealth of Pennsylvania as follows:

## II. Ordinance Text

### SECTION A.

1. The Township Treasurer (hereinafter, "Treasurer"), or such official's designee, is hereby appointed as the designated officer authorized to carry out all responsibilities and duties required by the Act.

### SECTION B.

1. No insurance company, association or exchange (hereinafter collectively "Insurer") 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 under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, unless the Insurer is furnished by the Treasurer with a certificate pursuant to 40 P.S. 638(b), and unless there is compliance with 40 P.S. 638(c) and the provisions of this Ordinance. The certificate shall be issued within fourteen (14) days after the written request of the named insured which request shall specify the information required by the Act.

### SECTION C.

1. Where the amount recoverable for the fire loss under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, and there are no delinquent taxes, assessments, penalties, liens, user charges, or costs for the removal, repair or securing of a building or other structure on the property at issue; the Treasurer shall issue a certificate or verbal notification to the Insurer of that fact.

2. Where the amount recoverable for the fire loss under all policies exceeds Seven Thousand Five Hundred (\$7,500.00) Dollars, and there are delinquent taxes, assessments, penalties, liens, user charges, or costs for the removal, repair or securing of a building or other structure on the property at issue; the Treasurer shall issue to the Insurer a certificate and bill itemizing the said amounts.

3. In performing his duties under sub-sections 1 and 2 above, the Treasurer and the Township shall adhere to the requirements of the Act.

### SECTION D.

1. Where pursuant to 40 P.S. 638(b)(1)(i) the Treasurer issues a certificate or notification indicating that there are no delinquent taxes, assessments, penalties, liens, or user charges against the property, and the Township has not certified an amount as total costs incurred to remove, repair or secure a building or other structure on the property; the insurer shall pay the claim of the named insured; provided however, that if the loss agreed upon by the named insured and the Insurer equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures shall be followed:

(a). The Insurer shall transfer from the insurance proceeds to the Treasurer the sum of \$2,000.00 for each \$15,000.00 of a claim and for each fraction of that amount of a claim,

however if 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 that calculated using the above formula, the Insurer shall transfer to the Treasurer the amount specified in the estimate.

(b). The transfer of proceeds referenced in sub-section (a) above shall be paid on a pro rata basis by all Insurers (if more than one) insuring the building or other structure.

(c). If after the transfer referenced in sub-section (a) above the named insured shall submit a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure and provided that the Township has not commenced to remove, repair or secure the building or other structure; the Treasurer shall return the amount of the funds in excess of the estimate transferred to the Township to the named insured.

(d). Upon receipt of insurance proceeds by the Township under this Section D, the following procedures shall apply.

(1) The Treasurer shall place the proceeds in a separate fund to be used solely as security against the total costs to the Township of removing, repairing, or securing the building or other structure and any proceedings and costs related thereto.

(2) When transferring the funds as required by sub-section (a) above the Insurer shall provide to the Township the name and address of the named insured, and thereafter the Township shall contact the named insured, certify that it has received the proceeds and notify the named insured that the procedures under this sub-section (d) shall be followed.

(3) If the Township has not incurred any costs for the repair, removal or securing of the building or other structure, it shall return the funds to the named insured upon proof, provided to the Treasurer, that the named insured has completed the repair, removal or securing of the building or other structure to the satisfaction of the Township.

(4) If the Township has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the funds, and if, after full reimbursement to the Township there remains excess funds, the Township shall transfer those funds to the named insured.

(5) The Township shall be under no obligation to deposit the transferred funds into an interest bearing account, however if it does, the interest earned shall be used to reimburse the Township under this Section D. Excess funds reimbursed to the named insured, if any, shall include any interest earned thereon.

#### SECTION E.

1. The Township Board of Supervisors may by resolution adopt reasonable fees to be charged to defray the cost of Township services required by the Act, including but not limited to, the issuance of certificates and bills, performance of inspections and the opening of accounts.

#### SECTION F.

1. Any owner of property, any named insured or any Insurer who shall violate this Ordinance shall be subject to enforcement as a summary offense within the meaning of Section 1601 of the Second Class Township Code.

2. Each day or portion thereof in which a violation of this Ordinance is found to exist and each section of the Ordinance which is found to have been violated shall constitute a separate offense.

3. The Township Solicitor is authorized to prosecute all offenses occurring under this Ordinance.

4. The above notwithstanding, the Township shall retain all other rights and remedies available at law and in equity.

5. In any action commenced by the Township under this Ordinance, whether criminal or civil, the defendant shall be liable to the Township for all costs and fees including reasonable attorney and consultant fees incurred in that action.

#### SECTION G.

1. An exact copy of this Ordinance shall be filed with the Department of Community Affairs, together with the name, position and phone number of the Township Treasurer.

#### SECTION H.

1. In the event of a conflict between a requirement of this Ordinance and the Act, the requirement of the Act shall control.

### **III. Severability**

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

### **IV. Repealer**

All Ordinances or parts of Ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as some affect this Ordinance.

**V. Effective Date**

This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

**DULY ENACTED and ORDAINED** this 8th day of March, 2021, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

**UPPER SAUCON TOWNSHIP  
BOARD OF SUPERVISORS**



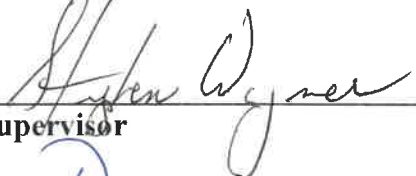
Chairman



Vice-Chairman



Supervisor



Supervisor



Supervisor

**ATTEST:**

  
Secretary