

TOWNSHIP OF WEST MAHANoy
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 2005-2

AN ORDINANCE OF THE TOWNSHIP OF WEST MAHANoy, SCHUYLKILL COUNTY, PENNSYLVANIA, PURSUANT TO ACT 98 OF 1992, AS AMENDED BY ACT OF 1994, PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OF THE MUNICIPALITY AS A PORTION OF THE INSURANCE PROCEEDS TO BE HELD AS SECURITY AGAINST THE TOTAL COST OF REMOVING, REPAIRING, OR SECURING THE DAMAGED BUILDING, PROVIDING FOR FEES, 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 OF WEST MAHANoy.

WHEREAS, the Commonwealth of Pennsylvania has 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 and has enacted amendments thereto; and

WHEREAS, it is the purpose of 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 West Mahanoy desires to adopt an Ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Municipality;

It is THEREFORE ORDAINED and ENACTED by the Township of West Mahanoy as follows:

Section 1. Enforcement Official

The Secretary-Treasurer of the Township of West Mahanoy is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

Section 2. Certificate Required Prior to Payment of Claims

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 the Township of West Mahanoy (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand (\$5,000.00) Dollars, unless the named insured or insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508(b) of Act 98 of 1992 as amended and unless there is

compliance with Section 508(c) of Act 98 of 1992 as amended and the provisions of this Ordinance.

Section 3. Procedure for Payments to Municipality

A) Where pursuant to Section 508(b)(1)(I) of Act 98 of 1992, as amended, the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agent shall pay the claim of the named insured; provided, however, that if the loss, as agreed upon by 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 restructure, the following procedures must be followed:

- 1) The insuring agent shall transfer from the insurance proceeds to the designated officer of the municipality in the aggregate of Two Thousand (\$2,000.00) Dollars for each Fifteen Thousand (\$15,000.00) Dollars of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is Fifteen Thousand (\$15,000.00) Dollars or less, the amount transferred to the municipality shall be Two Thousand (\$2,000.00) Dollars, or 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, repairing or securing the building or other structure, the insuring agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.
- 2) The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- 3) 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 the funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.
- 4) Upon receipt of the proceeds under this section, the Municipality shall do the following:
 - a) The designated officer shall place the proceeds in the 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 Municipality. Such costs shall include, without limitation any engineering, legal or administrative costs

incurred by the Municipality in connection with removal, repair or securing of the building or any proceedings related thereto.

b) It is the obligation of the insuring 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 proceeds have been received by the Municipality 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 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 repairs, removal or securing, the funds shall be returned to the named insured. If the Municipality 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 Municipality shall transfer the remaining funds to the named insured.

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. 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.

B) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality 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 4. Rules and Regulations; Fees

The Township of West Mahanoy may, be resolution adopt procedures and regulations to implement Act 98 of 1992 as amended and this Ordinance may 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 5. Violations and Penalties

Any owner of property, any named insured or any insuring agent who violates this Ordinance shall be subject to a penalty of up to One Thousand (\$1,000.00) Dollars per violation.

Section 6. 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.

Section 7. Conflicting Ordinances

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

This Ordinance shall become effective immediately.

ENACTED AND ORDAINED this 21 day of June , 2005.

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF WEST MAHANoy

BY:


Evelyn Andrews, Chairperson


Paul Martin, Supervisor

ATTEST:


Michael Michalik, Secretary


Regina Kurtz, Supervisor

ORDINANCE

WHEREAS, the purpose of this ordinance is to promote the general health, safety and welfare of the citizens of this Municipality and to conform to the requirements of the Pennsylvania Construction Code Act and regulations to the Act promulgated by the Pennsylvania Department of Labor and Industry (hereinafter sometimes collectively referred to as the "Code"); and

WHEREAS, the Pennsylvania Construction Code Act requires the enactment of an appropriate ordinance by municipalities electing to administer and enforce the building code provisions of the Code.

NOW, THEREFORE, it is hereby enacted and ordained as follows:

1. This Municipality hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time, and its regulations.
2. The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of this Municipality.
3. Administration and enforcement of the Code within this Municipality shall be undertaken in any of the following ways as determined by the governing body of this Municipality from time to time by resolution:
 - a. By the designation of an employee of the Municipality to serve as the municipal code official to act on behalf of the Municipality;
 - b. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Municipality;
 - c. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;
 - d. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of this Municipality;

- e. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

4. A Board of Appeals shall be established by resolution of the governing body of this Municipality in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

~~5. a. All building code ordinances or portions of ordinances which were adopted by this Municipality on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.~~

b. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.

c. All relevant ordinances, regulations and policies of this Municipality not governed by the Code shall remain in full force and effect.

6. Fees assessable by the Municipality for the administration and enforcement undertaken pursuant to this ordinance and the Code shall be established by the governing body by resolution from time to time.

7. This ordinance shall be effective **July 1, 2004.**

8. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

DULY ENACTED AND ORDAINED this 15th day of June,
by the Board of Supervisor of West Mahanoy Twp. in public session
duly assembled.

NAME OF MUNICIPALITY

By:

Charles A. Butler

Reginald R. Steuty

Paul Martin

ATTEST:

Michael B. Michail
Secretary

(Municipality Seal)