

**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, by 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

**ARTICLE 1**  
**PAYMENT OF FIRE LOSS CLAIMS**  
 (Adopted As Ord. No. )

123-1 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.

123-2 *West Mahanoy Township Code* *123-3*

123-2 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 with 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' and unless there is compliance with Section 508© of Act 98 of 1992 and the provision of this Article.

123-3. **Procedure for payments to municipality.**

A. Where pursuant to Section 508(b)(1)(I) of Act 98 of 1992, 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 form the insurance proceeds to the designated officer of the municipality in the aggregate of One Thousand (\$1,000.00) Dollars for each Twenty Thousand (\$20,000.00) Dollars of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim, this section to be applied such that if the claim is Twenty Thousand (\$20,000.00) Dollars or less, the amount transferred to the municipality shall be one thousand (\$1,000.00) 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 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 such 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 the proceeds have been received by the municipality and notify the named insured that the procedures under this subsection shall be followed.
- © When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and order of the municipality and the required proof of such completion received by the designated officer, and if the municipality has not incurred any exists for repairs, removal or securing, the fund 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 id 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.

123-4.

**Rules and Regulations; fees.**

The Township of West Mahanoy may, by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Article and may, by resolution, fix reasonable fees to be charged for municipal activities or services provided pursuant to Act 98 of 1992 and this Articles, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

123-5.

**Violations and penalties.**

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

RESOLVED THIS DAY

17<sup>th</sup> June 2003

*Shelly Anderson*  
CHAIRPERSON WEST MAHANoy TWP.

**WEST MAHANoy TOWNSHIP  
SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 98-2

**AN ORDINANCE PROVIDING FOR THE REIMBURSEMENT FOR  
EXTRAORDINARY EXPENSES AND SERVICES, AND THE  
ADMINISTRATION OF THE COLLECTION OF FEES AS REIMBURSEMENT  
FOR THOSE SERVICES AND EXPENSES.**

**COUNCIL MEMBERS OF THE TOWNSHIP OF WEST MAHANoy  
HEREBY ORDAIN AS FOLLOWS:**

**WHEREAS**, The Board of Supervisors find that the continuing increase in the costs of providing adequate fire, police, public works, and other public safety services, particularly in the event of extraordinary occurrences, such as the threat of or actual release of hazardous materials seriously impairs the Township's ability to provide all necessary services; and

**WHEREAS**, in order to better protect the public health, safety, and welfare, and to protect and preserve the public fiscal and all public funds and tax dollars, the Township hereby adopts a policy of reimbursement of expenses incurred while providing services during a threat of or actual release of hazardous materials either in a transportation or fixed facility incident; and

**WHEREAS**, the following provisions are authorized, and it is further declared that all costs and fees related thereto are to be levied solely for the purpose of generating revenue to help defray the actual costs and charges of both public and private sector services during an extraordinary technological emergency.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF  
SUPERVISORS FOR WEST MAHANoy TOWNSHIP AS FOLLOWS:**

**REIMBURSEMENT FOR EXPENSES**

**SECTION 1 DEFINITIONS**

**1.1** An "extraordinary expense" shall be those expenses, and those related costs and fees that are incurred by the Township local, state or federal department or agency, emergency services organization and from the private sector for actual costs or charges for labor, materials, and any other costs associated with the use of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, confine, neutralize, contain, clean, or remove any hazardous material that is or may be involved in a fire, or release into the air, ground or water or the potential threat of any release or fire, and any and all activities associated



with the implementation of a protective action (i.e. evacuation ) to protect the public health, safety and welfare.

1.2 An "extraordinary service" is a service performed by any Township departments or employees, or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protective action. "Extraordinary services" may include, but is not limited to, the abatement and disposition of hazardous materials, spills, releases, or the threat of spills or releases of hazardous materials, utility line breaks or leakages and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed or contemplated in Section 1.1 above.

## SECTION 2 ADMINISTRATION

2.1 The Treasurer of the Township shall collect all fees as follows:

2.1.1. Fees and costs (including overhead costs) shall encompass all personnel equipment, materials and maintenance expenses in such a form as to insure for full reimbursement, as far as practicable, for charges from both the public and private sectors actually rendered.

A particular cost or fee schedule need not be set forth in this section or elsewhere in the Township ordinance or by further formal action by the Board of Supervisors. Township Supervisors approval of this section shall constitute authorization for the Treasurer to collect all such fees and costs (including overhead costs) pursuant to the receipt of related expenditures or costs that are submitted to the Township by affected public and private bureaus, agencies, departments or companies.

2.1.2. Within thirty (30) days of the date of the extraordinary or dangerous occurrence giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit its extraordinary service related costs, fees, charges and expenses to the Board of Supervisors for review. At such time as all costs, fees, charges and expenses related to the extraordinary services have been collected and reviewed, but in any case not later than sixty (60) days from the date of determining the combined cost of rendering extraordinary services, the Board of Supervisors shall submit a bill for all costs, fees, charges and expenses, to the owner, agent or manager of the vehicle or fixed facility which caused the need for extraordinary services, with a demand that a full remittance be made within thirty (30) days of receipt.

2.1.3. In cases of hardship, or where circumstances are such that a full remittance cannot be made to the Township within the thirty (30) day period, the Board of Supervisors shall hereby authorize the Township Solicitor to enter into negotiations with the owner or his agent for an extended payback period of time not to exceed six (6) months.

**2.1.4.** All monies received under the provisions of this article shall be placed into the General Fund and reimbursement be made to all public and private sector departments, agencies who had submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein.

**2.1.5.** The Board of Supervisors shall designate a person or persons who are authorized to conduct the administration of this ordinance including the billing and collection and disbursement of all fees and expenses and the maintenance of separate accounts for that purpose. Any person so designated shall report on a quarterly basis to the Board of Supervisors on all activities, billings, expenses, collections and proceedings. The Board of Supervisors may also designate by motion that the administration of this Ordinance, including the activity set forth in Section 2.1.6 below, shall be consolidated under the authority of the designated person of the Township of West Mahanoy to assemble the information, administer the billing and collection and disbursement of all fees and accounts and commence or recommend litigation. In either case any such administrative arrangement must be approved by motion by the Board of Supervisors.

**2.1.6.** The term "administration of this Ordinance" as used in this Ordinance shall include but not be limited to the review of claimed expense, the submission of bills, the collection of fees and costs and the authority to recommend and commence litigation under this Ordinance in the name of the Township. Any procedure administered by any entity other than the Township, shall be established in writing and shall conform to the requirements of this Ordinance and shall include the maintenance of separate accounts into which the monies collected under the authority of this Ordinance are deposited. A detailed account of all action taken either by the designated person as the case may be, pursuant to this Ordinance shall be submitted on a quarterly basis in time for the Board of Supervisors' meetings in the months pursuant to this Ordinance shall be submitted on a quarterly basis in time for the Borough Council's meetings in the months of April, July, October and January. Said reports shall cover the activities of the previous quarter. Despite such designation, the Borough Council may in its motion, establish additional rules, regulations or limits of authority of the designated person to administer this Ordinance. In addition, such designation or appointment to administer this Ordinance may be withdrawn at any time upon motion adopted by the Board of Supervisors. Such a designation creates no independent rights other than those authorized by law.

## **SECTION 3 LITIGATION**

**3.1** The Township may proceed by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder, plus attorney's fees and court costs and for any other relief that may be appropriate. No litigation may be commenced without the specific approval of the Board of Supervisors. All litigation shall be titled in the name of the Township of West Mahanoy and conducted by the Township Solicitor or other such attorney appointed by the Board of Supervisors.

## SECTION 4 MISCELLANEOUS

4.1 Nothing in this Ordinance shall authorize any Township bureau, department, or personnel or staff members to refuse or delay an emergency service to any person, firm, organization or corporation, that has not reimbursed the Township for extraordinary services.

4.2 Nothing in this Ordinance shall limit the right of the Township or the designated person to demand reimbursement for any and all services and expenses incurred by the Township or the designated person, in addition to expenses incurred for extraordinary services as set forth hereunder, that are rendered in any emergency from insurers of property to which the service is rendered or from any other liable party. Any reimbursement so demanded shall be administered as set forth elsewhere in this Ordinance.

## SECTION 5.

All ordinances and parts of ordinances inconsistent herewith be, and the same are hereby repealed.

## SECTION 6.

This Ordinance shall be effective as soon after adoption as permitted by law.

**DULY ENACTED AND ORDAINED** into law at a regular meeting of the Board of Supervisors, Township of West Mahanoy, Pennsylvania, held on this 18th day of August, 1998.

TOWNSHIP OF WEST MAHANOPY

ATTEST:

Michael D. Markle

Regina A. Herty  
Regina Kurtz, Supervisor

(SEAL)

William O'Donnell  
William O'Donnell, Chairman