

CODE OF THE BOROUGH OF NORTHUMBERLAND

CHAPTER 32 – INSURANCE — FIRE DAMAGE

[History: Adopted by the Council of the Borough of Northumberland 7-2-96 as Ord. No. 441]

ARTICLE I – ESTABLISHMENT

32.1.01 Ordinance enacted per act of Legislature. (32-1)

This ordinance is enacted pursuant to the Act of May 17, 1921, P. L. 682, No. 284, ~ 508, as amended (40 P. S. ~ 638), hereinafter referred to as "The Act".

32.1.02 Designated Officer. (32-2)

The Code Officer, or such other person as may be approved by Borough Council, is appointed as the Designated Officer who shall be authorized to carry out certain responsibilities set forth in this Ordinance.

32.1.03 Fire Insurer shall not Pay Name Insured without Certificate. (32-3)

No insurance company, association or exchange (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 Borough where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.00) unless the insurer is furnished by the Borough Tax Collector with a municipal certificate pursuant to Section 3 of this Ordinance, and unless there is compliance with Section 5 of this Ordinance.

32.1.04 Tax collector shall issue certificate to insurer. (32-4)

The Borough Tax Collector shall, upon the written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date agreed upon by the insurer and named insured as the date of the receipt of a loss report of the claim, furnish the insurer either of the following certificate within fourteen (14) working days of the said request:

- A. A certificate or, at the discretion of the borough, a verbal notification which shall be confirmed in writing by the insurer 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 Northumberland Code – Chapter 32 – Insurance – Fire Damage notification, the borough has not certified any amount as total cost incurred by the borough for the removal, repair, or securing of a building or other structure on the property; or
- B. 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 the date of the certificate, the amount of the total costs, if any, certified to the Borough Tax Collector that have been incurred by the borough for the removal, repair, or securing of a building or other structure on the property. For the purposes of this Ordinance the borough shall certify to the Borough 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 of lien could otherwise have been filed against the property by the borough under applicable law.

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32.1.05 Procedure if taxes, etc. are due. (32-5)

Upon receipt of a certificate and bill pursuant to 32.1.4B above the insurer shall return the bill to the Borough Tax Collector an amount from the insurance proceeds necessary to pay the taxes, assessment, penalties, charges and costs as shown on the bill. The borough shall receive the amount and apply or credit it to payment of the item shown in the bill.

32.1.06 Procedure if loss is 60% or more of aggregate limits of liability. (32-6)

Upon receipt of a certificate pursuant to 32.1.4A above the insurer 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 insurer equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or other structure, the following procedure shall be followed:

- A. The insurer shall transfer from the insurance proceeds to the Designated Officer in the aggregate two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00) and for each fraction of that amount of a claim (this subsection to be applied such that if the claim is fifteen thousand dollars (\$15,000.00) or less, the amount transferred to the Borough shall be two thousand dollars (\$2,000.00), or if at the time of a loss report the named insured has submitted a contractors signed estimate of the cost of removing, repairing, or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer from the insurance proceeds to the Designated Officer the amount specified in the estimate.
- B. The transfer of the proceeds shall be on a pro-rata basis by all companies, associations or exchanges insuring the building or other structure.
- C. After the aforesaid transfer, the named insured may submit an estimate of the cost of removing, repairing, or securing of the building or other structure, in which event the Designated Officer shall return the amount of the funds transferred to the borough in excess of the estimate to the named insured if the borough has not commenced to remove, repair or secure the building or other structure.
- D. Upon receipt of the proceeds under this Section, the Designated Officer shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing, or securing the building or other structure which are incurred by the borough. Such cost shall include, without limitation, any engineering, legal or administrative costs incurred by the borough in connection with such removal, repair, or securing of the building or other structure or any proceedings related thereto;
- E. It is the obligation of the insurer when transferring the proceeds to provide the borough 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 borough and notify the named insured that the procedures under this ordinance shall be followed;
- F. When repairs, removal, or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the borough and the required proof of such completion received by the Designated Officer, the fund shall be returned to the named insured if the borough has not incurred any costs for repairs, removal, or securing, but if the borough has incurred costs for repairs, removal, or securing of the building or other structure, the excess funds to the named insured; and
- G. To the extent that interest is earned on proceeds held by the borough pursuant to this Section and no proceeds are to be returned to the named insured, such interests shall belong to the borough, but to the extent that proceeds are returned to the named insured at the time that the proceeds are returned.
- H. Nothing in this ordinance shall be construed to limit the ability of the borough to recover any deficiency. Furthermore, nothing in the ordinance shall be construed to prohibit the borough and the named

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insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

- I. Borough Council may from time to time by resolution adopt the procedures and regulations to implement The Act and this Ordinance and may from time to time by resolution fix reasonable fees to be charges for municipal activities or services provided pursuant to The Act and this Ordinance, including but not limited to issuance of certificates and bills, performance of inspections, and opening separate fund account.

32.1.07 Violation and penalties. (32-7)

[As passed 12/18/2001 as part of Ordinance 2001-13, all penalties for this and subsequent parts of borough code are determined by council resolution]

32.1.08 Effect of partial invalidity. (32-8)

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

32.1.09 Inconsistent ordinance repealed. (32-9)

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

32.1.10 Effective date of ordinance. (32-10)

This ordinance shall become effective at the earliest date allowed by law.