ORDINANCE 05-02

AN ORDINANCE OF THE TOWNSHIP OF FRANKLIN TOWNSHIP, PURSUANT TO ACT 98 OF 1992, AS AMENDED BY ACT 93 OF 1994, PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURER HAVING A POLICY WITH RESPECT TO SUCH LOSS SHALL TRANSFER INSURANCE PROCEEDS TO THE FRANKLIN TOWNSHIP TREASURER TO BE USED TO PAY DELINQUENT TAXES AND OTHER MUNICIPAL CLAIMS OR BE HELD AS SECURITY AND USED TO PAY THE TOTAL COST OF REMOVING, REPAIRING OR SECURING THE DAMAGED BUILDING AND PROVIDING FOR FEES; SETTING FORTH RELATED PROCEDURES TO IMPLEMENT SAID ACT; AND PROVIDING FOR PENALTIES FOR VIOLATION.

The Franklin Township Board of Supervisors hereby ordains:

Section 1. Use of Fire Insurance Proceeds.

1. No insurance company, association or exchange (hereinafter "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 of Franklin where the amount recoverable for the fire loss to the structure under all policies exceeds $7,500.00, unless the insurer is furnished by the Treasurer of Franklin Township ("Treasurer") with a certificate pursuant to 508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994 (collectively, the "Act") and unless there is compliance with the procedures set forth in 508(c) and (d) of the Act.

2. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses which the Township of Franklin has incurred as a cost for the removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Secretary of Franklin Township ("Secretary") shall immediately render a bill for such work, if she has not already done so. Upon written request of the named insured specifying the tax description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer shall furnish within 14 working days after the request, to the insurer, a certificate (or at her discretion an oral notice confirmed in writing) either:

A. Stating that there are no unpaid municipal claims or municipal expenses against the property; or,

B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to subsection (B) of this Section, the insurer shall transfer to the Treasurer an amount from the insurance proceeds sufficient to pay such sums prior to making payment to the named insured, subject to the provisions of Section (3) hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection (2) of this Ordinance, or where the Treasurer has issued a certificate described in subsection (2)(A) indicating that there are no municipal claims or municipal expenses against 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 insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

A. The insurer shall transfer from the insurance proceeds to the Treasurer, in the aggregate, $2,000 for each $15,000 of such claim or fraction thereof.

B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Secretary, a contractor's 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 to the Treasurer from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro rata basis by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds, the Treasurer shall do the following:

(1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township of Franklin to be required in removing, repairing or securing the building or structure as required by this ordinance. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township of Franklin in connection with such removal, repair or securing or any proceedings related thereto; and

(2) Mail to the named insured, at the address received from the insurer, a notice the proceeds have been received by the Township of Franklin and that the procedures under this subsection shall be followed.

(3) After the transfer, the named insured may submit to the Secretary a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Treasurer shall, if such estimate is deemed by the Treasurer to be reasonable, return to the insured the amount of the funds transferred to the Township of Franklin in excess of that required to pay the municipal expenses;

provided, the Township of Franklin has not commenced to remove, repair or secure the building or other structure, in which case the Township of Franklin will complete the work.

(4) Pay to the Secretary, for reimbursement to the Township of Franklin general fund, the amount of the municipal expenses paid by the Township of Franklin.

(5) Pay the remaining balance in the fund (without interest) to the named insured upon receipt of a certificate issued by the Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Township of Franklin.

(6) Nothing in this Section shall be construed to limit the ability of the Township of Franklin to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this ordinance, or to insurance proceeds, by an action at law or in equity to enforce the codes of the Township of Franklin or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Township of Franklin may deem responsible.

Section 2. Limits of Liability. Nothing in this ordinance shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this ordinance or to make this Township, any Township official, a municipality or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this ordinance.

Section 3. Insurance Company Rights Reserved. An insurance company, association or exchange making payment of policy proceeds under this ordinance for delinquent taxes or structure removal liens or removal expenses incurred by the Township of Franklin shall have a full benefit of such payment including all rights of subrogation and of assignment.

Section 4. Construction. This ordinance shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

Section 5. Notification of Pennsylvania Department of Community and Economic Development. The Secretary shall transmit a certified copy of this ordinance promptly to the Pennsylvania Department of Community and Economic Development.

Section 6. Penalty. Any owner of property, any named insured or insurer who violates the provisions of this ordinance or who shall fail to comply with any of the requirements hereof shall be sentenced,

upon conviction thereof, to a fine of not more than $1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day on which an offense shall continue shall be deemed a separate offense.

Section 7. Saving Clause. The provisions of this ordinance, so far as they are the same as those of ordinances enforced immediately prior to the enactment of this ordinance are intended as a continuation of such ordinances and not as new enactments. The provisions of this ordinance shall not affect any act done or liability incurred, nor shall it affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this ordinance.

Section 8. Severability. The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as a legislative intent that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision not been included herein.

Section 9. Effective Date. This Ordinance shall take effect in accordance with law.

Section 10. Repealer. All ordinance or parts of ordinances in conflict herewith be and the same are hereby repealed.

THIS ORDINANCE IS ENACTED AND ORDAINED this 15th day of March, 2005.

BOARD OF SUPERVISORS
TOWNSHIP OF FRANKLIN

ATTEST:

Secretary