

**ORDINANCE NO. 2003-5**

AN ORDINANCE OF EAST BETHLEHEM TOWNSHIP PROVIDING FOR THE ESCROW OF PROCEEDS FROM INSURANCE FOR A FIRE FOR PURPOSES OF MUNICIPAL CLAIMS, LIENS, BUILDING CODE ENFORCEMENT MATTERS AND PROPERTY MAINTENANCE.

WHEREAS, THE EAST BETHLEHEM BOARD OF COMMISSIONERS DETERMINE THAT IT IS IMPORTANT TO THE CITIZENS AND RESIDENTS OF EAST BETHLEHEM TOWNSHIP THAT STRUCTURES WHICH ARE THE SUBJECT OF A FIRE BE PROPERLY ADDRESSED THROUGH THE ESCROWING OF FIRE INSURANCE PROCEEDS FROM INSURANCE FOR THE PURPOSES OF INSURING THAT MUNICIPAL CLAIMS, LIENS AND BUILDING CODE ENFORCEMENT MATTERS AND PROPERTY MAINTENANCE ARE ADDRESSED, AND;

WHEREAS, THE COMMISSIONERS HAVE DETERMINED THAT IN ORDER TO ACCOMPLISH THE AFORESAID, IT IS APPROPRIATE TO ENACT AN ORDINANCE FOR SAID PURPOSES.

NOW THEREFORE, the East Bethlehem Township Board of Commissioners in lawful session meeting do hereby Ordain and Enact the Fire Insurance Escrow Ordinance as follows:

**Section 1. Township Official to Enforce Part.**

The Building Inspector or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

**Section 2. Municipal Certificate Required.**

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 the fire damage to a structure located within East Bethlehem Township (hereinafter the "Township") where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000.00), unless the named insured or insuring agent is furnished by the Township Treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Part.

**Section 3. Fire Insurance Escrow.**

Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, the Township 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 is the loss as agreed upon by the names 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:

A. The insuring agent shall transfer from the insurance proceeds to the designated officer of the Township in the aggregate of one thousand dollars (\$1,000.00) for each twenty thousand dollars (\$20,000.00) of a claim and for each fraction of that amount of a claim, this Section to be applied such that if the claim is twenty thousand dollars (\$20,000.00) or less, the amount transferred to the Municipality shall be one thousand dollars (\$1,000.00); or,

B. If at the time of a proof of loss agreed to between the names insured and the insuring agent, the names 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 Township from the insurance proceeds the amount specified in the estimate.

C. The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

D. 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 Township in excess of the estimate to the named insured, if the Township has not commenced to remove, repair or secure the building or other structure.

E. Upon receipt of proceeds under this Section, the Township shall do the following:

(1) 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 Township. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing of the building or any proceedings related thereto.

(2) It is the obligation of the insuring agent when transferring the proceeds to provide the Township with the name and address of the name 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 Township and notify the names insured that the proceeds have been received by the Township and notify the names insured that the procedures under this subsection shall be followed.

(3) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Township and the required proof of such completion received by the designated officer, and if the Township has not incurred any costs for repairs, removal or securing, the fund shall be returned to the names insured. If the Township has incurred costs for repairs, removal or securing the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Township shall transfer the remaining funds to the names insured.

(4) to the extent that interest is earned on proceeds held by the Township pursuant to this Section, and not returned to the named insured, such interest shall belong to the Township. To the extent that the 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.

F. Nothing in this Section shall be construed to limit the ability of the Township to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Township and the names 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. Adoption of Procedures and Regulations; Fee for Certificate.**

1. The Township Board of Commissioners of East Bethlehem Township may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Part and may by resolution fix reasonable fees to the charges for municipal activities or services provided pursuant to Act 98 of 1992 and this Part; including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

2. Any person or entity requesting a certificate that there are no delinquent taxes, assessments, penalties or user charges against real property shall submit a written request along with a certificate fee of twenty dollars (\$20.00).

#### **Section 5. Penalties.**

Any owner of property, any named insured or any insuring agent who violates this Part shall be subject to a penalty of up to one thousand dollars (\$1,000.00) per violation.

**Section 6. Penalties.**

Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than \$1,000.00, and in default of payment, to imprisonment for a term not to exceed 30 days. Each day that a violation of this ordinance continues shall constitute a separate offense

**Section 7. Repealer.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinance specifically is repealed - Ordinance No. 526.

**Section 8. Severability.**

If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the East Bethlehem Township Board of Commissioners that this clause, section or part thereof not been included herein.

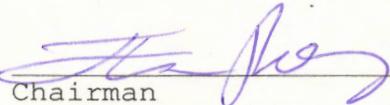
**Section 9. Effective Date.**

This ordinance shall become effective in accordance with law.

ORDAINED AND ENACTED THIS 9th DAY OF SEPTEMBER, 2003 BY THE EAST BETHLEHEM TOWNSHIP BOARD OF COMMISSIONERS IN LAWFUL SESSION MEETING.

EAST BETHLEHEM TOWNSHIP  
BOARD OF COMMISSIONERS

Date: Sept. 9, 2003

By:   
Chairman