

ORDINANCE NO. 93

AN ORDINANCE OF THE TOWNSHIP OF SOUTH HUNTINGDON, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING FEES TO BE ESTABLISHED FOR FIRE, HEALTH, SAFETY AND RESCUE OPERATIONS; AUTHORIZING REIMBURSEMENT FOR SERVICES PERFORMED FOR SUCH ACTIVITIES; AND AUTHORIZING PAYMENT TO SUCH SERVICE PROVIDERS; AND ALSO PROVIDING THAT IN CERTAIN FIRE LOSSES THE INSURANCE COMPANY, ASSOCIATION OR EXCHANGE SHALL TRANSFER INSURANCE PROCEEDS TO A DESIGNATED OFFICER OR 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 PENALTIES FOR VIOLATION AND SETTING FORTH PROCEDURES AND REQUIREMENTS PERTAINING TO SUCH INSURANCE PROCEEDS.

WHEREAS, the Board of Supervisors of the Township of South Huntingdon has recognized and designated the two (2) South Huntingdon Township Volunteer Fire Companies as the fire companies to provide certain fire, accident and rescue services to, for and within the Township of South Huntingdon; and

WHEREAS, the said South Huntingdon Township Volunteer Fire Companies perform fire-fighting services, respond to accidents, alarms, natural and artificially created calamities, hazardous incidents and environmental incidents, all to the general benefit of the Township, its residents and those within the Township; and

WHEREAS, said activities cause certain expenses to be incurred for labor, materials and equipment; and

WHEREAS, the Board of Supervisors of the Township of South Huntingdon desires to establish specific authority for the establishment of costs for services performed and equipment and materials utilized; and collection and reimbursement of such costs from those benefiting from such services, equipment use and materials.

THEREFORE, in consideration of the foregoing, the Board of Supervisors of the Township of South Huntingdon does hereby enact and ordain as follows:

SECTION I. Response.

- a. The two (2) South Huntingdon Township Volunteer Fire Companies, in conjunction with each other and adjacent fire, ambulance, rescue, emergency and hazardous response organizations, and in conjunction with adjacent municipalities, the County of Westmoreland, Commonwealth of Pennsylvania and the United States of America, through their agencies which are authorized and directed to undertake fire, emergency, rescue, disaster, accident, hazardous and other requests for services, are

hereby authorized to determine the manner, method and order of providing services and responses for such situations, in conjunction with the aforementioned entities, within the Township of South Huntingdon.

- b. The two (2) South Huntingdon Township Volunteer Fire Companies are hereby authorized to respond to requests for assistance outside the Township of South Huntingdon in the manner, method and order as determined by, between and among adjacent municipalities, the County of Westmoreland, Commonwealth of Pennsylvania and the United States of America, through their agencies, and in conjunction with adjacent fire, ambulance, rescue, emergency and hazardous response organizations, in order to respond to fire, emergency, rescue, disaster, accidents, hazardous and other requests, in those instances where mutual aide agreements exist by, between and among any or all of the aforementioned companies, departments, municipalities, agencies or governments and/or to the extent authorized by law.

SECTION II: Reimbursement for Costs and Expenses.

- a. The two (2) South Huntingdon Township Volunteer Fire Companies are hereby directed to develop a schedule of fees which reflect the costs and expenses incurred by the Companies in performing various functions in response to fire, emergency, rescue, disaster, accidents, hazardous and other incidents.
- b. The Board of Supervisors of the Township of South Huntingdon shall, upon receipt of said schedule, review, approve and adopt, by Resolution, a schedule of fees or charges for said costs and expenses.
- c. Upon approval of such schedule of fees and charges by the Board of Supervisors of the Township of South Huntingdon, the two (2) South Huntingdon Township Volunteer Fire Companies are authorized to recover such fees and charges from the party or parties to or for whom services were rendered.
- d. Upon approval of such schedule of fees and charges by the Board of Supervisors of the Township of South Huntingdon, the two (2) South Huntingdon Township Volunteer Fire Companies are authorized, in the collection of said fees and charges, to enter into contracts with any appropriate person, corporation or other entity for collection of such fees and charges.

SECTION III: Use of Funds Collected.

- a. The two (2) South Huntingdon Volunteer Fire Companies are hereby authorized to use any and all fees and charges collected by each, pursuant to this Ordinance and any and all Resolutions adopted pursuant hereto, for the proper use of each Fire Department.

SECTION IV.: Insurance Claims for Fire Damage to Structures.

- a. No insurance company, association or exchange doing business in the Commonwealth of Pennsylvania shall pay a claim of an insured for fire or similar damage to a structure located within the Township of South Huntingdon, where the amount recoverable for such loss under all policies exceeds \$7,500.00, unless the insured or insuring agent is furnished by the Township's Treasurer with a certificate, issued pursuant to §40 P.S. §638(b); and until and unless there is full compliance with §40 P.S. §638(b) and the provisions of this Ordinance.
- b. Upon the issuance by the Township Treasurer of a proper certificate pursuant to the above Act indicating that there are no delinquent taxes, assessments, penalties or user charges against the real property, then the insuring agent shall pay the claim of the insured; provided however, that if it is agreed between the insured and the insuring agent that the loss equals or exceeds sixty (60%) percent of the aggregate limits of liability of all policies of insurance covering the building restructure, then the following procedures shall be followed:
 - 1. The insuring agent shall transfer from the insurance proceeds to the designated officer of the Township in the aggregate of \$2,000.00 for each \$15,000.00 of a claim and for each fraction of that amount of a claim. This section is to be applied such that if the claim is \$15,000.00 or less, the amount transferred to the Township shall be \$2,000.00; or
 - 2. 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 Township from the insurance proceeds the amount specified in the estimate.

3. The transfer of proceeds shall be on a pro-rata basis by all companies, associations or exchanges insuring the building or other structure.
4. 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.
5. Upon receipt of proceeds under this section, the Township 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 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; and
 - b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Township 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 Township and notify the named insured that the procedures under this subsection shall be followed; and
 - c) 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 named insured. If the Township has incurred costs for repairs, removal or securing of the building or other structure, the cost shall be paid from the fund and if excess funds remain, the Township shall transfer the remaining funds to the named insured; and

d) 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 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.

6. 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 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 V. Fees to Comply with 40 P.S. §638

The Board of Supervisors of the Township of South Huntingdon may, by Resolution and from time to time, adopt procedures, rules and regulations to implement 40 P.S. §638 and the provisions of this Ordinance; and may, by any such Resolution, fix reasonable fees, costs, expenses and charges to be made or placed upon anyone requesting services from the Township for the activities, certificates, bills, performance, inspections or separate fund accounts required by 40 P.S. §638.

SECTION VI. Penalties.

Whosoever shall violate this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of \$1,000.00 per day and costs; and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days.

SECTION VII.

If any word, phrase, section, sentence, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, invalidity or illegality shall not affect or impair any of the remaining words, phrases, sections, sentences, clauses or parts of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of South Huntingdon that this Ordinance would have been adopted had such unconstitutional, illegal or invalid word, phrase, section, sentence, clause or part thereof not been included therein.

SECTION VIII. General Repealer.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

ORDAINED AND ENACTED this 22nd day of March, 2007.

TOWNSHIP OF SOUTH HUNTINGDON

By: _____
Chairman

Vice-Chairman

Supervisor

ATTEST: (SEAL)

Secretary-Treasurer