

## Chapter 106

### INSURANCE

**[HISTORY: Adopted by the Borough Council of the Borough of Upland: Art. I, 3-14-1995 as Ord. No. 4-1995. Amendments noted where applicable.]**

#### ARTICLE I

##### Fire Insurance Claims

**[Adopted 3-14-1995 as Ord. No. 4-1995]**

##### **§ 106-1. Designation of officer.**

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

##### **§ 106-2. Municipal certificate required.**<sup>1</sup>

No insurance company, association or exchange (hereinafter the "insuring agency") 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 of Upland (hereinafter the "municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds seven thousand five hundred dollars (\$7,500.) unless the named insured or insuring agent is furnished by the Municipal Treasurer with a municipal certificate pursuant to Section 508B of Act 98 of 1992<sup>2</sup> and unless there is compliance with Section 508C and D of Act 98 of 1992<sup>3</sup> and the provisions of this Article.

##### **§ 106-3. Claims payment procedures.**

A. Where pursuant to Section 508 B(1)(i) of Act 98 of 1992<sup>4</sup> the Municipal Treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the insuring agency shall pay the claim of the names insured; provided, however, that if the loss is agreed upon by the named insured and the insuring agency equals or exceeds sixty percent (60%) 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 dollars

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1. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

2. Editor's Note: See 40 P.S. § 638(b).

3. Editor's Note: See 40 P.S. § 638(c) and (d).

4. Editor's Note: See 40 P.S. § 638(b)(1)(i).

(\$2,000.) for each fifteen thousand dollars (\$15,000.) of a claim 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.) or less, the amount transferred to the municipality shall be two thousand dollars (\$2,000.).<sup>5</sup>

- (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 municipality 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 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.
- (5) Upon receipt of proceeds under this subsection, 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; 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.
  - (c) When repairs, removal or securing of the building or other structure has been completed in accordance 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 fund shall be returned to the named insured. If the municipality has incurred cost 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

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5. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

remaining funds to the named insured.

- (d) To the extent that interest is earned on proceeds held by the municipality pursuant to this subsection 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 section 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.

**§ 106-4. Establishment of procedures and fees.**

The Upland Borough Council may, by resolution, adopt procedures and regulations to implement Act 98 of 1992<sup>6</sup> 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 Article, including but not limited to issuance of certificates and bills, performance of inspections and opening separate fund accounts.

**§ 106-5. Violations and penalties.**<sup>7</sup>

Any owner of property, any named insured or any insuring agency who or which violates this Article shall be subject to a penalty of up to one thousand dollars (\$1,000.), plus costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days.

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<sup>6</sup>. Editor's Note: See 40 P.S. § 638.

<sup>7</sup>. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.