

ORDINANCE NO. 121-01

AN ORDINANCE AUTHORIZING THE PROCEDURE DESCRIBED IN DIVISIONS (C) AND (D) OF §3929.86 CONCERNING FIRE LOSS CLAIMS AND INSURANCE PROCEEDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

**Section 1.** That, the City of Napoleon, Ohio authorizes the procedures described in divisions (C) and (D) of §3929.86 of the Ohio Revised Code.

**Section 2.** That, the City Finance Director is directed to file a certified copy of this Ordinance with the Superintendent of Insurance.

**Section 3.** That, the City Finance Director shall be the designated officer to carry out the duties of as found in §3929.86 of the Ohio Revised Code to the extent required by division (C) of said section.

**Section 4.** That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

**Section 5.** That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

**Section 6.** That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed: 11-19-01

Michael J. DeWit  
Michael J. DeWit, Council President

Approved: 12/19/01

J. Andrew Small  
J. Andrew Small, Mayor

VOTE ON PASSAGE 6 Yea 0 Nay 0 Abstain

Attest:  
Gregory J. Heath  
Gregory J. Heath, Clerk/Finance Director

243-1900

§ 3929.86 Certain fire loss claims not to be paid without certificate from county treasurer and compliance with municipal requirements.

**Text of Statute**

(A) No insurance company doing business in this state shall pay a claim of a named insured for fire damage to a structure located within a municipal corporation or township in this state where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars, unless the company is furnished with a certificate pursuant to division (B) of this section, and unless there is compliance with the procedures set forth in divisions (C) and (D) of this section.

(B)(1) The county treasurer, upon the written request of the named insured specifying the tax description of the property and the date agreed upon by the insurance company and the named insured as the date of the receipt of a proof of loss of the claim, shall furnish the named insured, to be supplied by the named insured to the company, either:

(a) A certificate to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties, or charges against the property and that, as of the date of the treasurer's certificate, no municipal corporation or township has certified to the auditor any amount as total costs incurred by the municipal corporation or township for removal, repair, or securing of buildings or structures on the property pursuant to section 715.261 [715.26.1] or 505.86 of the Revised Code;

(b) A certificate and bill showing the amount of delinquent taxes, assessments, penalties, and charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the treasurer's certificate, the amount of the total costs, if any, incurred by a municipal corporation or township for removal, repair, or securing of buildings or structures on the property that have been certified to the county auditor under section 715.261 [715.26.1] or 505.86 of the Revised Code. The county auditor shall, for the purposes of division (B) of this section, certify to the treasurer the total amount, if any, of such costs certified to the auditor by the municipal corporation or township.

(2)(a) Upon the receipt of a certificate pursuant to division (B)(1)(a) of this section, the insurance company shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty per cent of the aggregate limits of liability on all fire policies covering the building or structure. In the case of such a loss, the insurance company, the insured property owner, and the municipal corporation or township shall follow the procedures set forth in divisions (C) and (D) of this section.

(b) Upon the receipt of a certificate and bill pursuant to division (B)(1)(b) of this section, the insurance company shall return the bill to the treasurer and transfer to the county treasurer an amount from the insurance proceeds necessary to pay such taxes, assessments, penalties, charges, and costs as shown on the bill. Notwithstanding section 23.15 of the Revised Code, the treasurer shall receive such amount and apply or credit it to payment of the items shown in the bill.

(C) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies, in accordance with division (F) of section 715.26 or division (D) of section 505.86 of the Revised Code, shall transfer from the insurance proceeds to the designated officer of the municipal corporation or township in the aggregate two thousand dollars for each fifteen thousand dollars, and each fraction of that amount, of a claim, or, if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

The transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the municipal corporation or township shall be disbursed in accordance with the policy terms.

The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the municipal corporation or township has not commenced to remove, repair, or secure the building or other structure.

This division only applies to municipal corporations or townships that have adopted a resolution, ordinance, or regulation authorizing the procedure described in divisions (C) and (D) of this section and have filed a certified copy of the resolution, ordinance, or regulation for public record with the superintendent of insurance, and applies only to fire losses that occur after the filing of the certified copy. The resolution, ordinance, or regulation shall designate the officer authorized to carry out the duties of this section.

(D) Upon receipt of proceeds by the municipal corporation or township as authorized by 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 incurred by the municipal corporation or township pursuant to section 715.261 [715.26.1] or 505.86 of the Revised Code.

When transferring the funds as required in division (C) of this section, an insurance company shall provide the municipal corporation or township with the name and address of the named insured or insureds, whereupon the municipal corporation or township shall contact the named insured or insureds, certify that the proceeds have been received by the municipal corporation or

township, and notify them that the following procedures will be followed:

The fund shall be returned to the named insured or insureds when repairs, removal, or securing of the building or other structure have been completed and the required proof has been received by the designated officer, if the municipal corporation or township has not incurred any costs for the repairs, removal, or securing. However, the fund shall be returned to the named insured or insureds no later than sixty days after the designated officer receives the required proof. If the municipal corporation or township has incurred any costs 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 municipal corporation or township shall transfer, no later than sixty days after all such costs have been paid, the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of a municipal corporation or township to recover any deficiency under section 715.261 [715.26.1] or 505.86 of the Revised Code.

Nothing in this division shall be construed to prohibit the municipal corporation or township and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

(E) Proof of payment by the company or companies of proceeds under a policy in accordance with division (C) of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company or companies with division (C) of this section.

(F) Nothing in this section shall be construed to make an insurance company liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this section, or to make a municipal corporation, township, 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 section.

(G) An insurance company making payment of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by a municipal corporation or township shall have the full benefit of such payment including all rights of subrogation and of assignment.

(H) As used in this section and section 3929.87 of the Revised Code, "insurance company" or "insurer" includes the Ohio fair plan underwriting association as established in section 3929.43 of the Revised Code.

(I) This section 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.

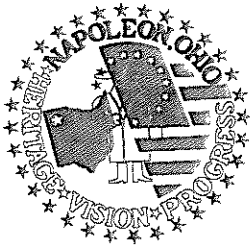
HISTORY: 138 v S 198 (Eff 7-31-80); 141 v H 370 (Eff 3-17-87); 144 v S 221. Eff 6-18-92.

HOME

TITLES

SEARCH

TITLES  
by FRAMES



# City of NAPOLEON, OHIO

255 WEST RIVERVIEW AVENUE • P.O. BOX 151  
NAPOLEON, OHIO 43545-0151  
PHONE (419) 592-4010 • FAX (419) 599-8393  
WEB PAGE: www.napoleonohio.com

DATE: May 5, 2009

TO: Dr. Jon A. Bisher, City Manger  
David M. Grahn, Law Director  
Chad Lulfs, City Engineer  
Tom Zimmerman, Building and Zoning Administrator

FROM: Gregory J. Heath, Finance Director/Clerk of Council *GH.*

SUBJECT: Pending Claims in 243 Fire Loss Claim Fund

As requested in Staff Meeting, May 5, 2009, the following are the Pending Claims currently paid into the 243 Fire Loss Claim Fund:

<u>Address</u>	<u>Policy Holder</u>	<u>Amount Held</u>
820 Welsted Street	Leighton & Bobbi Mullins	\$28,000.00 — <i>Refunded 2009</i>
318 Union Street	Joshua J. Krok	\$13,860.00 — <i>Open 10/25/09</i>
1210 Detroit Street	Mike Austermiller	\$10,000.00 — <i>Refunded 2009</i>

The above list is the current open list the City is holding funds on. I am not aware of the status or process for arrangements to have these properties restored, or torn down. I will refer you to the Building and Zoning Administrator on that issue.